

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
(motion returnable October 18, 2017)

October 13, 2017

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(as of October 13, 2017)

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Court File No. CV15-10882-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
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NOTICE OF MOTION

(motion returnable October 18, 2017)

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 October 18, 2017 at 9:30 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) an order abridging the time for service of this notice of motion and the motion record so that the motion is properly returnable on October 18, 2017;

- (b) an order approving the sale by the Trustee of Phase I commercial mall unit 316 on level 2 (“**Unit 316**”) to 2599406 Ontario Inc. (the “**Purchaser**”), and vesting such property in the Purchaser free and clear of all claims and encumbrances (other than permitted encumbrances) upon delivery of a certificate by the Trustee to the Purchaser;
- (c) an order approving the sale by the Trustee of Phase I commercial mall unit 360 on level 2 (“**Unit 360**”) to the Purchaser, and vesting such property in the Purchaser free and clear of all claims and encumbrances (other than permitted encumbrances) upon delivery of a certificate by the Trustee to the Purchaser;
- (d) an order authorizing the Trustee, following the closings of the sales of Unit 316 and Unit 360, to distribute amounts to York Region Standard Condominium Corporation No. 1228 (“**YRSCC 1228**”) from the net sale proceeds of the property on account of its registered and valid condominium liens;
- (e) an order authorizing the Trustee to distribute \$23,500 to Guest Tile Inc. (“**Guest Tile**”), a construction lien claimant, from the net sale proceeds of the Kiosks (as defined below), on account of Guest Tile’s legal costs with respect to its construction lien claim; and
- (f) 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, 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) take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (c) market any or all of the Property;
 - (d) sell, convey, transfer, lease or assign the Property or any part or parts thereof with the approval of the Court; and
 - (e) 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.

Sale Transactions

3. The Property includes Unit 316, which is 176 gross square feet in size, and Unit 360 (together with Unit 316, the “Units”), which is 251 gross square feet in size. They are commercial units located on level 2 of the shopping mall known as “The Mall at Langham Square”.
4. The Trustee previously retained TradeWorld Realty Inc. (“TradeWorld”) in May 2015 to list, among other things, the Units.
5. In its over 20 month period as real estate listing agent for the Units, TradeWorld did not receive any offers to purchase the Units.
6. The Trustee allowed its listing agreement with TradeWorld to expire on January 15, 2017.
7. The Trustee retained Century 21 as its real estate listing agent on February 3, 2017.
8. Based on the advice and recommendation of Century 21, the listing prices for the Units were reduced from the listing prices previously used by TradeWorld.
9. The offers received from the Purchaser for the Units are for less than the listing prices for the Units. However, the Trustee believes that the Units have been fairly and properly exposed to the market through the listings by TradeWorld and Century 21, that all reasonable steps have been taken to obtain the best price possible for the Units, and recommends that the sale transactions for the Units be approved by the Court and the necessary vesting orders be granted.

10. The sale transactions are conditional on Court approval and, if such approval is granted, the sales are expected to close on October 25, 2017.
11. In the event that the transactions are approved by the Court and close, the Trustee will hold the net sale proceeds, following distribution to YRSCC 1228 on account of its valid and enforceable condominium liens, subject to further order of the Court.

Guest Tile

12. Guest Tile is a construction lien claimant that has received distributions from the Trustee from the net sale proceeds of the Property in the principal amount of its construction lien claim pursuant to Court orders, as it registered its lien against Property that was otherwise not subject to encumbrances that were to still be relied upon by creditors, such as three kiosks located on level 1 of Langham Square (collectively, the “**Kiosks**”).
13. Guest Tile sought payment of its legal fees and disbursements related to its involvement in this proceeding in the partial indemnity amount of \$27,000. Guest Tile had also taken the position that it is entitled to payment of interest with respect to its construction lien claim.
14. T the Trustee and Guest Tile have agreed to a resolution that will result in, subject to this Court’s approval, Guest Tile receiving a distribution in the amount of \$23,500 from the net sale proceeds of the otherwise unencumbered Kiosks on account of its legal costs claim, and Guest Tile will not pursue any interest claim in this proceeding.

15. The Trustee is of the view that this resolution is reasonable in the circumstances, as it resolves the issue of Guest Tiles costs and interest claim without any additional professional expenses to be incurred by the Trustee.

General

16. The Eighteenth Report of the Trustee dated October 12, 2017 (the “**Eighteenth Report**”) and the appendices thereto.
17. Rules 1.04, 1.05, 2.01, 2.03, and 37 of the *Rules of Civil Procedure* (Ontario).
18. The equitable and inherent jurisdiction of the Court.
19. 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 Eighteenth Report and the appendices thereto; and
2. such further and other material as counsel may advise and this Honourable Court may permit.

October 13, 2017

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

**AND IN THE MATTER OF AN APPLICATION MADE BY JADE-KENNED DEVELOPMENT CORPORATION
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1)
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Court File No. CV15-10882-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

NOTICE OF MOTION
(motion returnable October 18, 2017)

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TAB 2

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

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

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

**AND IN THE MATTER OF THE 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**

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

October 12, 2017

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**”).
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. All Court documents referred to herein, and other 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 EIGHTEENTH REPORT

4. The purpose of this Eighteenth Report of the Trustee (the “**Eighteenth Report**”) is to:

- (a) request that the Court grant orders:
 - (i) approving the sale by the Trustee of Phase I Mall Unit 316 to 2599406 Ontario Inc. (the “**Purchaser**”) and vesting such property in the Purchaser free and clear of all claims and encumbrances (other than permitted encumbrances) upon delivery of a certificate by the Trustee to the Purchaser;
 - (ii) approving the sale by the Trustee of Phase I Mall Unit 360 to the Purchaser and vesting such property in the Purchaser free and clear of all claims and encumbrances (other than permitted encumbrances) upon delivery of a certificate by the Trustee to the Purchaser;
 - (iii) authorizing the Trustee, following the closings of the sale transactions detailed above, to distribute amounts to York Region Standard Condominium Corporation No. 1228 (“**YRSCC 1228**”) from the net sale proceeds of Phase I Mall Unit 316 and Phase I Mall Unit 360 on account of its registered and valid condominium liens;

- (iv) authorizing the Trustee to distribute \$23,500 to Guest Tile Inc. ("**Guest Tile**"), a construction lien claimant, from the net sale proceeds of the Kiosks (as defined below), on account of Guest Tile's legal costs with respect to its construction lien claim; and
- (b) report to the Court with respect to matters related to payment of the legal fees and disbursements of Laurentian Bank of Canada ("**LBC**" or the "**Bank**") from the net sale proceeds of certain of the Property.

TERMS OF REFERENCE

5. In preparing this Eighteenth 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 Eighteenth 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.

SALE OF UNITS 316 and 360

Phase I Commercial Units at the SUSQ Project

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. 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.
8. Construction of Phase I was substantially completed on March 5, 2013 and the condominium declaration was registered on April 17, 2013, which established YRSCC 1228.
9. As of the date of the Appointment Order, JKDC was still the registered owner of the following Phase I properties, among others:
 - (a) eleven mall units located on level 2 of The Mall at Langham Square (previously known as The Mall at South Unionville Square) (the "**Mall**") (collectively, the "**Phase I Mall Units**"); and
 - (b) three kiosks located on level 1 of Langham Square (the "**Kiosk Units**").

10. As noted above, 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.
11. The Trustee has completed the sale of the Kiosk Units in accordance with the Approval and Vesting Order (Kiosk Units) of The Honourable Mr. Justice Pattillo dated October 16, 2015. As previously reported to the Court, the Trustee realized net sale proceeds of approximately \$89,000 with respect to the Kiosk Units.

Real Estate Agents

12. 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.
13. As previously reported to the Court, the Trustee had retained TradeWorld Realty Inc. ("**TradeWorld**") to list certain unsold Property for sale, pursuant to a listing agreement dated May 4, 2015.
14. After several extensions, the Trustee allowed this agreement to expire on January 15, 2017.

15. During its over 20 month retainer as real estate listing agent, TradeWorld was able to sell the Kiosk Units and one commercial/retail unit legally known as unit 60 on level 1.
16. During its retainer period, TradeWorld was unable to locate a buyer for any of the Phase I Mall Units, including Unit 316 and Unit 360. TradeWorld had listed Unit 316 for \$109,900 and Unit 360 for \$149,900.
17. In its over 20 month period as real estate listing agent for Unit 316 and Unit 360, TradeWorld did not receive any offers to purchase these units.
18. Given the number of units still available for sale and the ongoing carrying costs for these units, the Trustee requested a proposal from Century 21, who had recently sold similar units in the same market. Century 21 proposed a targeted, comprehensive three phase marketing campaign with supportable price reductions in order to profile and sell the remaining units. This campaign includes: a full time sales representative on site seven days a week, two sales events, three festival events, targeted radio/magazine advertising and detailed monthly reports, all at Century 21's expense.
19. The Trustee retained Century 21 as its real estate listing agent for all unsold Property (excluding certain parking units) on February 3, 2017. A festival event was held on site on February 25th and 26th to coincide with Chinese New Year celebrations. Further marketing campaigns have been held resulting in thirteen offers being approved to date, the offers described herein, and interest in other units.

Unit 316

20. Unit 316 is 176 gross square feet and is located on level 2 of the Mall. Century 21 listed this unit for sale at a price of \$78,000.
21. After some negotiation, Yuan Li agreed to an offer price of \$70,000, as set out in the agreement of purchase and sale executed by Yuan Li on September 24, 2017 and accepted by the Trustee on September 28, 2017 a copy of which, as amended to change the purchaser to the Purchaser, is attached hereto and marked as **Appendix "A"**. This price is 10% below the listing price. A copy of the parcel register for Unit 316 is attached hereto and marked as **Appendix "B"**.
22. Unit 316 is subject to the following encumbrances:
 - (a) a \$30.0 million charge in favour of Aviva Insurance Company of Canada ("**Aviva**");
 - (b) a condominium lien in favour of YRSCC No. 1228 in the amount of \$1,615;
 - (c) a \$3.6 million charge in favour of LBC;
 - (d) a \$2.4 million charge in favour of LBC;
 - (e) an \$8.0 million charge in favour of MarshallZehr Group Inc. ("**MZG**"); and
 - (f) construction liens in favour of Guest Tile and Draglam.

23. The Trustee believes that Unit 316 has been fairly and sufficiently exposed to the market through the listing with TradeWorld and the recent targeted marketing campaign completed by Century 21, and that all reasonable steps have been taken to obtain the best price possible for the unit.
24. On this basis, the Trustee recommends that the sale transaction be approved by the Court, as:
- (a) it is the only offer the Trustee has received for this unit;
 - (b) the Purchaser has advised the Trustee that the price was negotiated on the basis that they were buying both Unit 316 and Unit 360;
 - (c) the Trustee was able to move the closing date up;
 - (d) the offer is recommended by Century 21 based on current market conditions;
 - (e) the owner will operate a business; and
 - (f) the offer is unconditional other than with respect to the Trustee obtaining Court approval of the sale transaction and a vesting order.
25. If the Court approves the sale transaction, the sale of Unit 316 is scheduled to close on October 25, 2017.
26. In the event that this transaction is approved by the Court and closes, the Trustee will hold the net sale proceeds subject to further order of the Court, other than taking steps to distribute to YRSCC 1228 the amount it is entitled to in

connection with its registered condominium lien, as to be confirmed by the Trustee.

Unit 360

27. Unit 360 is 251 gross square feet and is located on level 2 of the Mall. Century 21 listed this unit for sale at a price of \$100,000.
28. After some negotiation, Yuan Li agreed to a price of \$89,000, as set out in the agreement of purchase and sale executed by the Units 316/360 Purchaser on September 24, 2017 and accepted by the Trustee on September 28, 2017 a copy of which, as amended to change the purchaser to the Purchaser, is attached hereto and marked as **Appendix "C"**. This price is 11% below the net listing price. A copy of the parcel register for Unit 360 is attached hereto and marked as **Appendix "D"**.
29. Units 360 is subject to the same encumbrances listed in paragraph 22 for Unit 316, although the condominium lien is in the amount of \$2,218.
30. The Trustee believes that Unit 360 has been fairly and sufficiently exposed to the market through the listing with TradeWorld and the recent targeted marketing campaign completed by Century 21, and that all reasonable steps have been taken to obtain the best price possible for the unit.
31. On this basis, the Trustee recommends that the sale transaction be approved by the Court, as:
 - (a) it is the only offer the Trustee has received for this unit;

- (b) the Purchaser advises that the price was negotiated on the basis that they were buying both Unit 316 and Unit 360;
 - (c) the Trustee was able to move the closing date up;
 - (d) the offer is recommended by Century 21 based on current market conditions;
 - (e) the owner will operate a business; and
 - (f) the offer for Unit 360 is unconditional other than with respect to the Trustee obtaining Court approval of the sale transaction and a vesting order.
32. If the Court approves the sale transaction, the sale of Unit 360 is scheduled to close on October 25, 2017.
33. In the event that this transaction is approved by the Court and closes, the Trustee will hold the net sale proceeds subject to further order of the Court, than taking steps to distribute to YRSCC 1228 the amount it is entitled to in connection with its registered condominium lien, as to be confirmed by the Trustee.

GUEST TILE

34. As set out in detail in the Trustee's Seventeenth Report to the Court dated September 25, 2017 (the "**Seventeenth Report**"), Guest Tile is a construction lien claimant that has received distributions from the Trustee from the net sale

proceeds of the SUSQ Property in the principal amount of its construction lien claim pursuant to Court orders, as it registered its lien against SUSQ Property that was otherwise not subject to encumbrances that were to still be relied upon by creditors. A copy of the Seventeenth Report, without appendices, is attached hereto and marked as **Appendix "E"**.

35. Guest Tile sought payment of its legal fees and disbursements related to its involvement in this proceeding in the partial indemnity amount of \$27,000. Guest Tile had also taken the position that it is entitled to payment of interest with respect to its construction lien claim.
36. Following numerous discussions, the Trustee and Guest Tile have agreed to a resolution that will result in, subject to this Court's approval, Guest Tile receiving a distribution in the amount of \$23,500 from the net sale proceeds of the otherwise unencumbered Kiosks on account of its legal costs claim, and Guest Tile will not pursue any interest claim in this proceeding.
37. The Trustee is of the view that this resolution is reasonable in the circumstances, as it resolves the issue of Guest Tiles costs and interest claim without any additional professional expenses to be incurred by the Trustee. As a result, the Trustee requests that the Court authorize it to distribute \$23,500 to Guest Tile from the net sale proceeds of the otherwise unencumbered Kiosks.

LBC

38. As has been previously reported to the Court, the development and construction of part of the SUSQ Project was financed by credit facilities made available to

JKDC by Laurentian pursuant to a commitment letter dated August 4, 2011, a copy of which is attached hereto and marked as **Appendix “F”**.

39. In connection with the credit facilities, Laurentian was granted, among other things, the following security:

(a) a charge/mortgage in the principal amount of \$45,000,000, a copy of which is attached hereto and marked as **Appendix “G”** (the “LBC Charge”);

(b) a general security agreement, a copy of which is attached hereto and marked as **Appendix “H”**;¹ and

(c) a deposit trust agreement, a copy of which is attached hereto and marked as **Appendix “I”**.

40. The LBC Charge was registered against title to certain of the residential units in Phase II of the SUSQ Project, the commercial units in Phase II, and property realized upon by the Trustee that has been referred to as the “Vacant Lands” through this proceeding. The Property subject to the LBC Charge is also subject to a subsequent charge registered in favour of Am-Stat Corporation (“**Am-Stat**”).

41. The Bank has confirmed that, prior to the commencement of this proceeding, JKDC had repaid all amounts owing to the Bank under the credit facilities, other than certain contingent liabilities under the letters of credit facility.

¹ At the time of the commencement of this proceeding, the Bank had registered a financing statement against the personal property of JKDC in accordance with the *Personal Property Security Act*.

42. As set out in the Seventeenth Report, LBC had issued letters of credit (“LCs”) in connection with JKDC’s obligations to complete certain works pursuant to site plan, construction and other agreements. JKDC posted cash collateral with Laurentian in support of the LCs. The cash collateral was advanced to JKDC by Laurentian under its letters of credit facility.
43. As at the date of the Trustee’s appointment, there were eleven (11) irrevocable standby LCs outstanding with a total aggregate value of \$3,038,273.54.
44. At the request of the Bank, the Trustee took steps to replace LBC as the LC provider with TD Bank. The Trustee sought this Court’s approval of the arrangements it had entered into with TD Bank, which was granted pursuant to the Order of The Honourable Madam Justice Conway dated March 22, 2016.
45. The Trustee completed the transaction with LBC and TD Bank, and the LCs that had been issued by Laurentian were terminated and replaced by TD Bank issued LCs in early April 2016. Additionally, the cash collateral held by Laurentian, after payment of Laurentian’s fees and costs, was transferred to TD Bank to secure the replacement letters of credit.
46. As a result of the work completed by the Trustee and its third party professional consultants and trades, the Trustee received \$1,758,457.84 in net LC proceeds from Laurentian in connection with released LCs.

47. Prior to releasing funds to the Trustee, Laurentian retained an aggregate amount of \$231,742.62 on account of fees, which included \$62,704.84 used by LBC to pay the invoices of its legal and other advisors.
48. As has been previously reported to the Court, a dispute arose between LBC and certain construction lien claimants as to whether the Bank was entitled to payment of its professional fees from the net sale proceeds of the Property subject to the LBC Charge in priority to the claims of construction lien claimants.
49. The parties agreed to a priority resolution process, which was approved by the Court pursuant to the Order of The Honourable Mr. Justice Wilton-Siegel dated June 30, 2016. The motion with respect to the priority issues was heard by Justice Wilton-Siegel on October 7 and 11, 2016.
50. On December 6, 2016, Justice Wilton-Siegel released an Endorsement, which provided at paragraphs 63 through 66 that the Bank's professional fees were secured by the LBC Charge in priority to the claims of the construction lien claimants. Attached hereto and respectively marked as **Appendices "J"** and **"K"** are copies of the Endorsement and the Order dated December 6, 2016.
51. The Bank's counsel, ThortontoGroutFinnigan LLP ("**TGF**"), has provided copies of its outstanding invoices in the aggregate amount of \$96,595.30 and has requested that the Trustee distribute this amount to the Bank from the net sale proceeds of the Property subject to the LBC Charge. As noted in the Seventeenth Report, the Trustee is maintaining a reserve in this amount from the net sale proceeds.

52. As noted above, Am-Stat has a charge against the same Property that is encumbered by the LBC Charge. The Trustee understands that Am-Stat is effectively the next-in-line creditor to receive payment of the net sale proceeds of the Property subject to the LBC Charge. As a result, the Trustee, through its counsel, contacted Am-Stat's counsel and requested confirmation whether Am-Stat would be taking any position in connection with the requested payment of the Bank's legal fees owing to TGF.
53. The Trustee understands that counsel to Am-Stat has raised concerns about whether the Endorsement and Order of Justice Wilton-Siegel addresses a potential priority issue between LBC and Am-Stat with respect to the net sale proceeds of the Property subject to their charges.
54. The Trustee further understands that, although the parties have exchanged correspondence, no resolution has been reached. As a result, it may be necessary for the Trustee to bring a motion for advice and direction of the Court in the event that a resolution cannot be agreed to by the Bank and Am-Stat.

All of which is respectfully submitted to this Court as of this 12th day of October, 2017.

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

TAB A

SOUTH URBICVILLE DISTRICT
COMMERCIAL UNIT
PORT ADMINISTRATION

Unit 2539 Level 2
Date 316 2005

AGREEMENT OF PURCHASE AND SALE

The undersigned, L.I. YUAN
(collectively, the "Purchaser"), hereby agrees with JANE HERVEY DEVELOPMENT CORPORATION, BY COLLIER BARRON TORONTO LIMITED as Court Appointed Trustee Under the Construction Lien Act (the "Vendor") to purchase the above captioned Unit(s) as outlined in the attached purchase order on the sheet attached hereto as Schedule "A", being a Unit in York Region Standard Condominium Plan No. 1288 located at 2639-8339 Kennedy Rd. Markham Ontario
Markham, Ontario together with an undivided interest in the common elements appurtenant to such unit and the undivided interest in the common elements appurtenant to such unit, if any, as set out in the Declaration (collectively, the "Unit") on the following terms and conditions:

- The purchase price of the Unit (the "Purchase Price") inclusive of Harmonized Sales Tax is Seventy Three Thousand Dollars L3R 5T5 (\$73,000.00) in full cash money of Canada payable as follows:
 - to the Vendor, in the following amounts at the following times, by cheque or bank draft, as a deposit pending completion or other fulfillment of this Agreement and to be applied on account of the Purchase Price on the Unit Transfer Date:
 - the sum of Fifteen Thousand Dollars 15,000.00 Dollars on the date of this Agreement, as a deposit; and
 - the balance of the Purchase Price by certified cheque drawn on the trust account of the Purchaser's solicitor on the Unit Transfer Date, subject to the aforementioned remainder set forth.
 - The transfer of title to the Unit shall be completed on October 25, 2017 (the "Unit Transfer Date").
 - The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is as follows:
 Address: 24 Longmeadow Crescent
Markham Ontario L3R 5T5
 Telephone (T): 905-889-4745 416-302-7356
 Facsimile: Final: 710@yahoo.com
 - The Purchaser acknowledges that this Agreement is conditional, upon the Vendor being satisfied in its sole discretion, with the terms and conditions of this Agreement. The Vendor shall have fifteen (15) days from the date of completion of this Agreement by the Vendor to provide written notice to the Purchaser to the address in paragraph 2(c) hereof, to terminate this Agreement, failing which the Vendor shall be deemed to have waived this condition and this Agreement shall be firm and binding. The Purchaser acknowledges that this condition is included for the sole benefit of the Vendor and may be waived by the Vendor at its sole option, at any time.

Paragraphs 3 through 6E and Schedules "A" and "B" of this Agreement are an integral part hereto and are contained on subsequent pages. The Purchaser acknowledges that he has read all paragraphs and schedules of this Agreement.

WITNESSED at Markham, this 24 day of Sept, 2017.

 JANE HERVEY DEVELOPMENT CORPORATION
 in the presence of

 PURCHASER
 PURCHASER'S SOLICITOR: Jacques M. Loh
 Address: Unit 10-3880 Midland Ave.
 Telephone: 416-609-8289 Facsimile: 416-609-8857

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

WITNESSED at Markham, this 28 day of Sept, 2017.

Vendor's Solicitor:
 Hanko Shandler, LLP
 Suite 810 - 4198 Yonge Street
 Toronto, Ontario, M2P 2B8
 Phone: 416-299-6999 Fax: 416-499-8888
 Attn: Mark L. Handy

JANE HERVEY DEVELOPMENT CORPORATION
 BY Collier Barron Toronto Limited as Court Appointed Trustee
 under the Construction Lien Act
 Per: _____
 (Signature) Signing Officer
 I have the authority to bind the Corporation.

THIS OFFER IS SUBJECT TO TRUSTEE
OBTAINING COURT APPROVAL

2. 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, E.O. 1998, C.19, the regulations thereunder and any amendments thereto (the "Act") and other laws and orders shall have the meaning ascribed to them 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. 1226;
- (c) "Condominium Documents" means the Creating Documents, the by-laws and rules of the Condominium, the declaration statement and initial statement together with all other documents and agreements which are entered into by the Vendor on behalf of the Condominium or by the Condominium directly prior to the transfer of the condominium, as may be amended from time to time;
- (d) "Cooperation" means York Region Standard Condominium Cooperation No. 1226;
- (e) "Creating Documents" means the declaration and description which were registered against title to the Property and which served to create the Condominium, as may be amended from time to time;
- (f) "Property" shall mean the lands and premises upon which the Condominium is constituted described as York Region Standard Condominium Plan No. 1226, in the Land Titles Division of the York Registry Office (No. 68)

Vendor's Oath

4. The Purchaser acknowledges that unless Schedule "A" is completed being void to be completed by the Vendor prior to the Unit Transfer Date, the Unit is being purchased in "as-is" condition.

Adjustments

6. The Purchase Price shall be adjusted to reflect the following items, which shall be apportioned and allowed to the Unit Transfer Date, with that day being apportioned to the Purchaser:

- (a) Realty taxes (including local improvement charges, if any), interest payable in accordance with the Act, shall be apportioned and allowed to the Unit Transfer Date. With respect to the realty taxes (including local improvement charges), the same shall be calculated as if the Unit had been fully assessed by the relevant taxing authority for the calendar year in which the transaction is completed, and shall be adjusted as if such taxes had been paid by the Vendor, notwithstanding the same may not have been levied or paid by the Unit Transfer Date, subject however, to reimbursement upon the actual amount of such taxes being ascertained.
- (b) The Purchaser shall be responsible for and shall pay on the Unit Transfer Date the charges imposed upon the Vendor or its solicitor by the Law Society of Upper Canada upon registration of a Transfer/Deed of Land or Charge/Mortgage of Land.
- (c) An administrative fee of TWO HUNDRED AND FIFTY (250.00) DOLLARS shall be charged to the Purchaser for any cheques delivered to the Vendor and not accepted by the Vendor's bank for any reason.
- (d) It is acknowledged and agreed by the parties hereto that the Purchase Price is payment of the federal portion and the provincial portion of the harmonized goods and services tax payable with respect to this purchase and sale transaction (provincially and federally referred to as the "HST"), and that the Purchaser shall pay to the Vendor the HST and the Vendor shall remit the HST to CRA on behalf of the Purchaser forthwith following the completion of this transaction or alternatively the Purchaser shall provide, execute and deliver to the Vendor all requisite documents and assurances that the Vendor may require and as required by the CRA for the purchase of immovable property in lieu of payment of the HST.
- (e) Notwithstanding any other provision herein contained in this Agreement, the Purchaser further 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 and the Purchaser understands and agrees to pay such HST to the Vendor in accordance with the Goods Tax Act (Canada) and any applicable Ontario legislation governing the payment of the provincial portion of the HST.

Title

6. The Purchaser shall be allowed fifteen (15) days following the date of the execution of this Agreement by the Purchaser (the "Inspection Period") to examine title to the Unit at the Purchaser's own expense and shall not, with the exception of any survey, file draft, abstract of title, pending certificate, necessary permits or conditions, nor any other proof or evidence of the title or acceptability of the Unit, except such copies thereof as are in the Vendor's possession. Within the Inspection Period, any valid objection to title or to any outstanding work order to be 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 provisions herein or regulations in respect of such objections, be null and void and the deposit money together with the interest required by the Act to be paid after deducting any payments due to the Vendor by the Purchaser as provided for in this Agreement shall be returned to the Purchaser and the Vendor shall have no further liability or obligation hereunder and shall not be liable for any costs or damages. Save as to any valid objections so made within the Inspection Period, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor in the Unit. The Purchaser acknowledges and agrees that the Vendor shall be entitled in respect to taxes or all of the regulations submitted by or on behalf of the Purchaser through the use of a standard HST remittance or file advice statement prepared by the Vendor's Solicitors, and that same shall constitute a voluntary manner of responding to the Purchaser's requisition, thereby relieving the Vendor and the Vendor's Solicitors of the requirement to respond directly or specifically to the Purchaser's requisitions.

7. The Purchaser hereby agrees to submit to the Vendor or the Vendor's Solicitor on the Unit Transfer Date, a written declaration as to how the Purchaser intends to take title to the Unit, including the status of both and related 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 unilaterally withdrawn. If the Purchaser does not submit such declaration within the required time as provided the Vendor shall be entitled to tender a Transfer/Deed on the Unit Transfer Date expressed in the name of the Purchaser as chosen on the face of this Agreement.

- 8. (a) The Purchaser agrees to accept title subject to the following:
 - (i) the Condominium Documents;

Handwritten signature and initials in the bottom right corner of the page.

(c) an undertaking from the Vendor's Solicitor to deliver such records to the mortgagee and to register the (partial) discharge of the mortgage with respect to the Unit upon receipt thereof and within a reasonable time following the Unit Transfer Date and to advise the Purchaser or the Purchaser's Solicitor concerning registration particulars.

11. The Purchaser agrees to accept the Vendor's covenant of indemnity regarding any tax claims which are the responsibility of the Vendor, in full satisfaction of the Purchaser's rights under the Condominium Lien Act, R.S.O. 1990, s.2.39 and will not claim any tax refunds on the Closing Date or Unit Transfer Date, as applicable. The Vendor shall complete the remainder of the Condominium according to its schedule of completion and either the Closing Date or the Unit Transfer Date shall be delayed on that account.

The Planning Act

12. This Agreement and the transaction arising therefrom are conditional upon compliance with the provisions of Section 66 of the Planning Act, R.S.O. 1990, s.P.13 and any amendments thereto on or before the Unit Transfer Date.

Purchaser's Covenants, Representations and Warranties

13. The Purchaser covenants and agrees that this Agreement is subordinate to and postponed to any mortgage created by the Vendor and any subsequent mortgage from time to time, and in any assessment, search or other agreement concerning the Condominium and the Condominium Documents. The Purchaser further agrees to execute and provide 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 rating personal information for the purposes of this transaction. The Purchaser further agrees to deliver to the Vendor, within ten (10) days of writing demand from the Vendor, all necessary financial and personal information required by the Vendor in order to evaluate the Purchaser's ability to pay the balance of the Purchase Price on the Unit Transfer Date, including without limitation, written confirmation of the Purchaser's income and evidence of the source of the payments required to be made by the Purchaser in accordance with this Agreement.

14. The Purchaser covenants and agrees not to register this Agreement or refuse to register this Agreement or a section, certificate of pending litigation, Purchaser's Lien, or any other document providing notice of this Agreement against the Property, Unit or the Condominium and further agrees not to give, register, or permit to be registered any consents, notices or documents which would be in conflict with the Vendor's obligations hereunder, the Vendor may, at any time and at any time of the Purchaser, cause the removal of notice of this Agreement, section or other document providing evidence of this Agreement or any assignment thereof, from the title to the Property, Unit or the Condominium. In addition, the Vendor, at its option, shall have the right to declare this Agreement null and void in accordance with the provisions of paragraph 26 hereof. The Purchaser hereby irrevocably consents to a court order revoking such notice of this Agreement, any section, 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 retainer and disbursements).

15. The Purchaser covenants not to let 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 let or advertise the Unit for sale or lease, at any time until after the Unit Transfer Date, without the prior written consent of the Vendor, which consent may be arbitrarily withheld. The Purchaser understands and agrees that once a breach of the preceding covenant occurs, such breach is or shall be incapable of mitigation, and accordingly the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the contractual right and the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the contractual right and the option of terminating this Agreement and the Company Liens, effective upon delivery of notice of termination to the Purchaser or the Purchaser's Solicitor, whereupon the provisions of this Agreement dealing with the assignment of the Unit by reason of the Purchaser's default, shall apply. The Purchaser shall be entitled to assert that title in 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 assert title to any other third party.

16. The Purchaser covenants and agrees that he or she shall not directly nor indirectly object to nor oppose any other plan (environmental), zoning application(s), variance application(s), other written applications under the plan application(s), nor any other applications similar 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 herein.

17. The Purchaser covenants and agrees that he or 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 construction administration office and related units, and the display of signs located on the Property.

Termination without Default

18. 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 accrued by law to be paid, shall be returned to the Purchaser; provided however, that the Vendor shall not be obligated to return any monies paid by the Purchaser as an Occupancy Fee or for optional upgrades, changes or extras ordered by the Purchaser. 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 income, for any out-of-pocket 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 defense to any such claim.

Warranties

19. (a) The Purchaser acknowledges and agrees that the absence by the building department of the municipality shall constitute complete and absolute compliance by the Purchaser of all construction notices and the quality and condition thereof, including, without limitation, all mechanical, electrical, plumbing and architectural notices. If such notices are withheld by the municipal authority as a result of non-compliance by the Purchaser the Purchaser shall be deemed to have accepted such notices for release and constitute complete and absolute compliance by the Purchaser of all construction notices and the quality and condition thereof, including, without limitation, all mechanical, electrical, plumbing and architectural notices.

(b) The Vendor does not warrant any of the systems contained or installed in the Unit or common elements, but shall provide the Purchaser with the full benefit of any warranties obtained by it to the extent that it is able to do so pursuant to the terms of the warranties. The Purchaser agrees to accept such warranties in lieu of any other warranties or guarantees, expressed or implied, in whole or in part, it being understood and agreed that there is

(16) [Signature]

dividend satisfactory evidence that the Vendor is ready, willing and able to complete the sale of such loan. Payment shall be received by certified cheque drawn on any Canadian chartered bank; and

29. It is further provided that, notwithstanding subparagraph 28(a) hereof, in the event the Purchaser or the Seller advises the Vendor or its Solicitor, on or before the Closing Date or Unit Transfer Date, as applicable, that the Purchaser is unable or unwilling to complete the purchase or take occupancy, the Vendor is released of any obligation to make any further tender upon the Purchaser or the Seller and may exercise forthwith any and all of its right and remedies provided for in this Agreement and at law.

30. As the electronic registration system (hereinafter referred to as the "Electronic Documents Registration System" or "EDRS") is operative in the applicable Land Titles Office in which the Property is registered, then the following provisions shall prevail:

(a) The Purchaser shall be obliged to retain a lawyer, who is both an authorized TRFSA 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 maintain such lawyer in order to do 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 solicitor at least ten (10) days prior to the Unit 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:

(i) shall not occur contemporaneously with the registration of the Transfer/Deed (and other registrable documents); and

(ii) shall be governed by the Escrow Document Registration Agreement, pursuant to which the Seller 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 Transfer/Deed to the Unit for registration until the balance of funds due on closing, in accordance with the statement of adjustments, are either certified by certified cheque or by electronic funds transfer to the Vendor's solicitor (or in such other manner as the latter may direct) prior to the release of the Transfer/Deed for registration.

(d) Each of the parties hereto agrees that the delivery of any documents not intended for registration on file in the Unit may be delivered to the other party herein by instant messenger (or by a similar system providing 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 and that the original shall not 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 courier service next 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 electronic 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 TRFSA 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 certifying the foregoing.

31. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

32. The headings of this Agreement form no part hereof and are inserted for convenience of reference only.

33. 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 survive in full force and effect as if each invalid provision had never been included hereof.

34. The Purchaser acknowledges that the Vendor may from time to time issue any and all unpaid units in the Condominium for commercial purposes and this paragraph shall override notice to the Purchaser as registered owner of the Unit after the Unit Transfer Date pursuant to the Act.

35. (a) If any documents required to be created 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 need not be registered in the Land Titles office unless the Units are registered, and a duplicate registered copy thereof (marked with a stubby destination note by the Purchaser's solicitor unambiguously certifying, 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 a corporation to be incorporated, the execution of this Agreement by the principal or principals of such corporation, or by the person named as the Purchaser in trust for a corporation to be incorporated, as the case may be, shall be deemed and construed to constitute the personal execution of such person or persons as signing with respect to the obligations of the Purchaser herein.

(28) No Purchaser's Work shall be commenced until the Purchaser's Plans have been approved in writing by the Vendor and the Purchaser's Work shall be performed strictly in accordance with the Purchaser's Plans as previously approved to be in writing by the Vendor. The Vendor shall be entitled to an administration fee for reviewing and approving the Purchaser's Plans, which fee shall be equivalent to Nine Hundred and Fifty (\$950.00) Dollars per unit. A set of the Purchaser's Plans with the Vendor's covered enclosed survey shall be kept in the Unit at all times throughout the period when the Purchaser's Work is being performed. The Vendor may, at its sole option, at the expense of the Purchaser, provide an enclosed, ready or review any Purchaser's Work which does not comply with the Purchaser's Plans as previously approved by the Vendor, the Ontario Building Code or any other governmental requirements.

(29) The Purchaser shall not be permitted to perform any Purchaser's Work in the common elements.

(30) The Purchaser shall keep the Unit locked during the period of time in which the Purchaser is carrying out the Purchaser's Work as may be required by the Condominium under the Vendor, including but not limited to the period of construction of Purchaser's Work, liability insurance of a minimum of Two Million (\$2,000,000.00) Dollars and vendor's compensation coverage. The Purchaser shall be responsible for and keep insured all improvements to the standard unit and shall remain all liability in respect of same.

(31) Prior to the performing any work, the Purchaser shall obtain all necessary permits, approvals, licenses, certificates and inspections from all municipal, governmental and regulatory authorities having jurisdiction, and shall deliver to the Vendor copies of same and shall post permits as required.

(32) (a) All the Purchaser's Work, as well as the operations which the Purchaser carries out within the Unit, shall comply with all applicable laws, by-laws, building codes, permits and approvals for such work, as well as with the requirements of the Vendor's and/or the Condominium's insurance. If any of the foregoing are not in compliance and the Purchaser fails to remedy such non-compliance forthwith, the Vendor may, at its sole option, remedy same, at the Purchaser's expense, payable on demand.

(b) The Purchaser shall in no event make any structural alterations nor any alterations which shall alter the structural parts of the building constituting part of the common elements.

(33) Any damage to the Unit, the Condominium or the Property during the performance of the Purchaser's work by the Purchaser, its contractors, subcontractors, tradesmen or related suppliers shall immediately be repaired by the Purchaser or, at the Vendor's option, by the Vendor, at the expense of the Purchaser, payable on demand.

(34) Upon termination of this Agreement, the Purchaser shall forthwith remove all of the Purchaser's Work from the Unit and restore the Unit to its original condition as it existed on the day immediately prior to the date the Purchaser's Work commenced or, at the Vendor's option, the Purchaser's Work in the event it has been completed shall then remain in the Unit and shall become the property of the Vendor.

(35) The opinion in writing of the Vendor's architect or other qualified consultants shall be binding on both the Vendor and the Purchaser respecting all matters of dispute regarding the Purchaser's Work, including the state of completion and whether or not the Purchaser's Work is completed in a good and workmanlike manner and in accordance with the Vendor's requirements, the Purchaser's Plans as approved by the Vendor and this Agreement.

(36) The Purchaser shall ensure that no construction law or any other law affects the Condominium or the Property or any part thereof, including the Unit, in respect of materials supplied or work done or to be done by the Purchaser or on behalf of the Purchaser or related to the Purchaser's Work and if the Purchaser fails to discharge or ensure any such law to be discharged no later than ten (10) days after notice thereof has been given to the Purchaser, then in addition to any other rights or remedies of the Vendor, the Vendor may, but shall not be obligated to, discharge the law by paying the amount claimed to be due less such amount or directly to the law claimant and the amount so paid and all costs and expenses (including legal costs on a solicitor and his client basis), shall be payable by the Purchaser to the Vendor forthwith on demand.

(37) The Purchaser acknowledges that in the event that he or she occupies the Unit prior to the commencement of construction of improvements to the Unit, he or she shall also be obligated to obtain such amounts as are necessary from the Condominium and abide by the terms of the Condominium Documents and the Condominium Act in regard to such construction.

(38) The Purchaser shall be obligated to obtain any company permit required by any municipal, governmental, or regulatory authority having jurisdiction and shall make available to the Vendor copies of same.

(39) Whenever in this paragraph the Vendor performs work due to some default by the Purchaser which the Purchaser is required to pay for, then the Purchaser shall, together with all other monies payable hereunder, pay to the Vendor, an administration fee equal to Eight per cent (8%) of the monies.

(40) The Purchaser consents and agrees that the Purchaser shall not, either before or after closing, be entitled to erect, offer, or maintain any signs whatsoever, advertising the name of the occupant of the Unit under the sign of the Unit under other matters, in any portion of the common elements, including without limitation to the interior or exterior surfaces of any window or door adjacent to the Unit, except as herein specifically provided or as provided under the Condominium Documents.

Signs already exist, subject to the terms of the Condominium Documents, except a separate unit is hereafter determined by the Vendor. Subject to availability of any given sign, and subject to entering into a lease or license with the owner of the sign Unit, a Purchaser will be permitted to attach a sign to the sign already on per the direction of the owner of the sign Unit.

In the event of failure of the Purchaser to comply with any of the provisions of this paragraph, including the provision to pay to the Vendor on demand any amounts separated by the Vendor in accordance with the provision thereof, the Vendor may, at its option, by notice to the Purchaser, declare this Agreement null and void, and retain all deposit monies paid hereunder, together with any interest earned thereon, as liquidated damages and not as a penalty.

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

(41) For the purposes of complying with the provisions of any applicable Federal and/or Provincial privacy legislation (including without limitation, the Personal Information Protection and Electronic Information Act, S.C. 2000, an

provided), the Purchaser hereby consents to the Vendor's collection and use of the Purchaser's personal information necessary and sufficient to enable the Vendor to proceed with the Purchaser's purchase of the Unit, including without limitation, the Purchaser's name, home address, e-mail address, telephonetic number, age, date of birth, and in respect of marital status only for the limited purposes described in subparagraphs (a), (b), (c) and (d) below, and in respect of residency status, and social insurance number only for the limited purposes described in subparagraph (e) below, as well as the Purchaser's financial information and desired mortgage design(s) and conventional conditions, in connection with the completion of this transaction and for post-closing and other related customer care purposes, and in the disclosure and distribution of any or all of such personal information to the following entities, or the express understanding and agreement that the Vendor shall not sell or otherwise provide or distribute such personal information to anyone other than the following entities, namely in:

- (a) any companies or legal entities that are associated with, related to or affiliated with the Vendor, other than conventional conditions that are directly associated with, related to or affiliated with the Vendor (or with the Vendor's parent/holding company) and are developing one or more other residential 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;
- (b) one or more third party claim processing companies which handle or process residential mortgages 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 communications about new developments and/or related services to the Purchaser and/or members of the Purchaser's family;
- (c) any financial institutions providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, including without limitation, the Vendor's construction lender(s), the project lender, the Vendor's designated construction lender(s), any warranty bond provider and/or other financial institutions, required in connection with the development and/or construction financing of the Condo/strata and/or the financing of the Purchaser's acquisition of the Property from the Vendor;
- (d) any insurance companies providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof) and/or the contents situated on the Condo/strata, including without limitation, any life insurance companies providing (or wishing to provide) life insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of the transaction;
- (e) any subcontractors or sub-subcontractors, 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 cables or apparatus ordered or requested by the Purchaser;
- (f) one or more providers of cable television, telephone, information, security alarm systems, hydro-electricity, chilled water/cooling water, gas and/or other similar or related services to the Property (or any portion thereof) under the Condo/strata, unless the Purchaser advises the Vendor in writing not to provide such personal information to or only providing security alarm systems and services;
- (g) any relevant governmental authorities or agencies, including without limitation, the Land Titles Office (in which the Condo/strata is registered), the Ministry of Finance for the Province of Ontario (i.e. with respect to Land Transfer Tax), and Canada Revenue Agency (i.e. with respect to HST);
- (h) Canada Revenue Agency, in whom attention the T-8 Internal Revenue for information return under the 1994 non-resident withholding tax information return is submitted (where applicable), which will contain or refer to the Purchaser's social insurance number or tax identification number (if the case may be), as required by Regulation 261(1) (4) (5) of The Income Tax Act R.S.C. 1985, as amended;
- (i) the Vendor's solicitors, to facilitate the interim company and/or final closing of this transaction, including the closing by electronic means via the Toronto Electronic Registration System, and whom may (in turn) furnish the disclosure of such personal information to an internet application service provider for distribution of documents;
- (j) the conventional corporation, for purposes of facilitating the completion of the corporation's voting, issuing and/or other relevant records, and to the conventional's property manager for the purposes of facilitating the issuance of notices, the collection of service charges and/or implementing other conventional management/stratification matters; and
- (k) any person, where the Purchaser further consents to such disclosure or dissemination required by law.

②
/s/

SCHEDULE "A" OF AGREEMENT OF PURCHASE AND SALE

EXCLUSIONS

Other than the Vendor's Work described below (if applicable) the Purchaser accepts the Lot in "as-is" condition.

[A large, curved handwritten line is drawn across the page, likely indicating a deletion or exclusion.]

[Handwritten mark, possibly a signature or initials.]

[Handwritten initials or signature.]

SCHEDULE "B" TO AGREEMENT OF PURCHASE AND SALE

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

1. A Disclosure Statement dated February 17, 2009, a Supplemental Disclosure Statement dated April 28, 2009 and accompanying documents in accordance with Section 72 of the Act.
2. The Budget.
3. The Declaration of York Region Standard Condominium Corporation No. 1228 registered in the Land Registry Office for the Land Titles Division of York on April 17, 2013 as Instrument No. YR1080977.
4. By-law No. 1 of the Condominium Corporation registered in the aforesaid Land Registry Office on April 28, 2013 as Instrument No. YR1878477.
5. By-law No. 2 of the Condominium Corporation registered in the aforesaid Land Registry Office on April 28, 2013 as Instrument No. YR1878484.
6. Management Agreement between the Condominium Corporation and *PH Property Marketing & Consulting Inc.*
7. Rules of the Condominium Corporation.
8. A copy of the Agreement of Purchase and Sale (to which this acknowledgment is attached as a Schedule) executed by the Vendor and the Purchaser.

The Purchaser further acknowledges and agrees that in the event there is a material change to the Disclosure Statement as defined in subsection 74(2) of the Act, the Purchaser's only remedy shall be set out forth in subsection 74(9) of the Act, notwithstanding any rule of law or equity to the contrary.

DATED at Montreal this 24 day of Sept., 2017

WITNESSES:

[Handwritten signature]

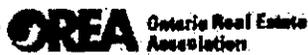
李維

Purchaser

Purchaser

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~~1~~



Confirmation of Co-operation and Representation



Form 320
for use in the Province of Ontario

BUYER: LI YUAN

SELLER: Collins Barrow Toronto Limited as Trustee for Jade-Kennedy Development Corporation

For the transaction on the property known as: 2539-8339 Kennedy Road Markham Ontario L3R 5T5

DEFINITIONS AND INTERPRETATIONS: 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. Commission shall be deemed to include other remuneration.

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

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

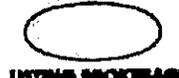
Additional comments and/or disclosures by Buyer Brokerage: (e.g. The Buyer Brokerage represents more than one Buyer offering on this property.)

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


BUYER


CO-OPERATING BUYER BROKERAGE


SELLER


LISTING BROKERAGE

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

CO-OPERATING BROKERAGE- REPRESENTATION:

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

CO-OPERATING BROKERAGE- COMMISSION:

- a) The Listing Brokerage will pay the Co-operating Brokerage the commission as indicated in the MLS® information for the property
As Indicated in MLS information 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
Belinda Ng Date: *Sept 24, 2017*
(Authorized to bind the Co-operating/Buyer Brokerage)
BELINDA WAI-NING NG
(Print Name of Broker/Salesperson Representative of the Brokerage)

Century 21, Leading Edge Realty Inc.
(Name of Listing Brokerage)
 165 Main Street North Markham Ontario L3P 1Y2
 Tel: 905-471-2121 Fax: 905-471-0832
 Date: _____
(Authorized to bind the Listing Brokerage)
LOUIE LUK
(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 consents 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.

李媛 Date: *Sept. 24, 2017*
(Signature of Buyer)

(Signature of Buyer)

[Signature] Date: *Sept 22/17*
(Signature of Seller)

(Signature of Seller)

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Amendment to Agreement of Purchase and Sale

Form 120
for use in the Province of Ontario

BETWEEN BUYER, LI, YUAN

AND SELLER, Collins Barrow Toronto Limited as trustee of Jade-Kennedy Development Corporation

RE: Agreement of Purchase and Sale between the Seller and Buyer, dated the 24 day of September, 2017, concerning the property known as 2539-8339 Kennedy Road, (suite 316) Markham Ontario L3R 5T5 as more particularly described in the aforementioned Agreement.

The Buyer(s) and Seller(s) herein agree to the following amendment(s) to the aforementioned Agreement:
 Insert/Delete:

Insert:

The undersigned, 2599406 Ontario Inc. (collectively, the "Purchaser")

Delete:

The undersigned, Li, Yuan (collectively, the "Purchaser")

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

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IRREVOCABILITY: This Offer to Amend the Agreement shall be irrevocable by Buyer until 11:59 p.m.

on the 13 day of October, 2017, after which time, if not accepted, this Offer to Amend the Agreement shall be null and void.

For the purposes of this Amendment to Agreement, "Buyer" includes purchaser and "Seller" includes vendor. Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective solicitors who are hereby expressly appointed in this regard.

All other Terms and Conditions in the aforementioned Agreement to remain the same.

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:

[Signature]
(Witness)

Yuan Li 李媛
(Buyer/Seller)

● DATE Oct 12/17
(Seal)

[Signature]
(Witness)

(Buyer/Seller)

● DATE
(Seal)

I, the Undersigned, agree to the above Offer to Amend the Agreement.

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:

L. Nishimura
(Witness)

[Signature]
(Buyer/Seller)

● DATE Oct 13/17
(Seal)

[Signature]
(Witness)

(Buyer/Seller)

● DATE
(Seal)

The undersigned spouse of the Seller hereby consents to the amendment(s) hereinbefore set out.

[Signature]
(Witness)

(Spouse)

● DATE
(Seal)

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at a.m./p.m. this 12 day of October, 2017.

李媛
(Signature of Seller or Buyer)

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Amendment to Agreement and I authorize the Brokerage to forward a copy to my lawyer.

I acknowledge receipt of my signed copy of this accepted Amendment to Agreement and I authorize the Brokerage to forward a copy to my lawyer.

[Signature] DATE Oct 13/17

Yuan Li 李媛 DATE Oct 12/17

DATE
(Seller)

DATE
(Buyer)

Address for Service

Address for Service

Tel.No.

Tel.No.

Seller's Lawyer

Buyer's Lawyer

Address

Address

Email

Email

Tel.No. FAX No.

Tel.No. FAX No.

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TAB B



PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #65

29759-0670 (LT)

PAGE 1 OF 7
PREPARED FOR CClark18
ON 2017/10/10 AT 13:22:56

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: 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

PROPERTY REMARKS:ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

RECENTLY:

CONDOMINIUM FROM 02963-3601

PIN CREATION DATE:

2013/04/22

OWNERS' NAMES

JADE-KENNEDY DEVELOPMENT CORPORATION

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2013/04/22 **						
MA31145	1951/07/26	BYLAW		THE CORPORATION OF THE TOWNSHIP OF MARKHAM		C
	REMARKS: BY-LAW NO. 1309 RE: BUILDING RESTRICTIONS SEE A-528776 (AFFECTS ALL/PT LANDS) ADDED 97/08/18 12:21 BY LOIS YAKIWCHEK					
YR686388	2005/08/18	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: PICKERING AIRPORT SITE ZONING REG. (SOR/10000-636)					
YR686395	2005/08/18	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: AERONAUTICS ACT AND THE PICKERING AIRPORT SITE ZONING REGULATIONS (SOR/10000-636)					
YR694205	2005/08/31	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: AERONAUTICS ACT AND THE PICKERING AIRPORT SITE ZONING REGULATIONS (SOR/10000-636) AFFECTS FIRSTLY LANDS					
YR753574	2005/12/21	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: AERONAUTICS ACT AND PICKERING AIRPORT SITE ZONING REGULATION AFFECTS THIRDLY AND FIFTHLY LANDS					
YR1444874	2010/02/24	CHARGE	\$30,000,000	JADE-KENNEDY DEVELOPMENT CORPORATION	AVIVA INSURANCE COMPANY OF CANADA	C
YR1445317	2010/02/25	CHARGE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
YR1445318	2010/02/25	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
	REMARKS: RENTS - YR1445317					
YR1445330	2010/02/25	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	LAURENTIAN BANK OF CANADA	C
	REMARKS: YR1444874 TO YR1445317					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #65

29759-0670 (LT)

PAGE 2 OF 7
PREPARED FOR CCLark18
ON 2017/10/10 AT 13:22:56

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1445332	2010/02/25	NOTICE OF LEASE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	T. & T. SUPERMARKET INC.	
YR1445352	2010/02/25	NO ASSGN RENT SPEC		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1445332. YR1445317				
YR1446522	2010/02/26	CHARGE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	D. MADY INVESTMENTS (2010) INC.	
YR1446523	2010/02/26	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	D. MADY INVESTMENTS (2010) INC.	
		REMARKS: RENTS - YR1446522				
YR1495979	2010/06/15	NOTICE	\$2	THE CORPORATION OF THE TOWN OF MARKHAM	JADE-KENNEDY DEVELOPMENT CORPORATION	C
YR1495980	2010/06/15	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	C
		REMARKS: YR1444874 TO YR1495979				
YR1495981	2010/06/15	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1445317 TO YR1495979				
YR1495982	2010/06/15	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1446522 TO YR1495979				
YR1499090	2010/06/18	NOTICE		THE CORPORATION OF THE TOWN OF MARKHAM	JADE-KENNEDY DEVELOPMENT CORPORATION	C
		REMARKS: PT 4 65R30830 PT 5 65R30830 PT 8 65R30830- AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1533097	2010/08/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1446522 TO YR1499090 AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1533098	2010/08/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1445317 TO YR1499090 AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1533099	2010/08/13	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	C
		REMARKS: YR1444874 TO YR1499090 AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1615462	2011/02/28	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1763902	2011/12/23	NO ASSGN RENT SPEC		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1445332.				
YR1763907	2011/12/23	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1446522 TO YR1763873				
YR1763923	2011/12/23	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1445317				
YR1764062	2011/12/23	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** AVIVA INSURANCE COMPANY OF CANADA	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1721683 TO YR1763873				
YR1832081	2012/06/01	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1763873				
YR1832265	2012/06/01	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	D. MADY INVESTMENTS (2010) INC.	
		REMARKS: CHARGE NO. YR1446522, SECURITY OF CHARGE YR1832114 OTHER LANDS				
YR1895409	2012/10/05	NO SEC INTEREST	\$2	MOREENERGY CAPITAL CORPORATION		C
YR1954840	2013/03/13	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	JADE-KENNEDY DEVELOPMENT CORPORATIN	C
YR1954841	2013/03/13	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	C
		REMARKS: YR1444874 TO YR1954840				
YR1954842	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1721683 TO YR1954840				
YR1954843	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1445317 TO YR1954840				
YR1954844	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1763873 TO YR1954840				

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YR1954845	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC. DELETED BY CATHY BULMER 2013/09/05	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1446522 TO YR1954840 DELETED BY YR2005313.				
YRCF1228	2013/04/17	STANDARD CONDO PLN				C
YR1966697	2013/04/17	CONDO DECLARATION		JADE KENNEDY DEVELOPMENT CORPORATION		C
YR1970477	2013/04/29	CONDO BYLAW/98 NO. 1		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
		REMARKS: BY-LAW				
YR1970484	2013/04/29	CONDO BYLAW/98 NO. 2		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
		REMARKS: BY-LAW				
YR1972811	2013/05/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** LAURENTIAN BANK OF CANADA		
		REMARKS: YR1763873.				
YR1975398	2013/05/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** AVIVA INSURANCE COMPANY OF CANADA		
		REMARKS: YR1721683.				
YR1975619	2013/05/10	APL ANNEX REST COV		JADE-KENNEDY DEVELOPMENT CORPORATION		C
YR1975654	2013/05/10	NO DET/SURR LEASE		*** COMPLETELY DELETED *** JAKE-KENNEDY DEVELOPMENT CORPORATION		
		REMARKS: YR1445332.				
YR1988652	2013/06/11	CHARGE		*** COMPLETELY DELETED *** JADE-KENNEDY DEVELOPMENT CORPORATION	JOLIE-JADE CORPORATION JADE MILLIKEN HOLDINGS LTD.	
YR2005313	2013/07/17	DISCH OF CHARGE		*** COMPLETELY DELETED *** D. MADY INVESTMENTS (2010) INC.		
		REMARKS: YR1446522.				
YR2014896	2013/08/06	DISCH OF CHARGE		*** COMPLETELY DELETED *** LAURENTIAN BANK OF CANADA		
		REMARKS: YR1445317.				
YR2031232	2013/09/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** JOLIE-JADE CORPORATION JADE MILLIKEN HOLDINGS LTD.		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: YR1988652.				
YR2062932	2013/11/20	CONDO LIEN/98		*** COMPLETELY DELETED *** YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		
YR2099424	2014/02/26	CHARGE		*** COMPLETELY DELETED *** JADE-KENNEDY DEVELOPMENT CORPORATION	R W FORTRESS INC.	
YR2099500	2014/02/27	POSTPONEMENT		*** COMPLETELY DELETED *** AVIVA INSURANCE COMPANY OF CANADA	RW FORTRESS INC.	
		REMARKS: YR1444874 TO YR2099424				
YR2102003	2014/03/05	DIS CONDO LIEN		*** COMPLETELY DELETED *** YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		
		REMARKS: YR2062932.				
YR2112686	2014/04/03	CONDO BYLAW/98		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
		REMARKS: BYLAW NO 3				
YR2193675	2014/09/30	DISCH OF CHARGE		*** COMPLETELY DELETED *** R W FORTRESS INC.		
		REMARKS: YR2099424.				
YR2195014	2014/10/01	CONDO LIEN/98	\$1,615	YORK REGION CONDOMINIUM CORPORATION NO. 1228		C
YR2195650	2014/10/01	CHARGE	\$3,600,000	JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	C
YR2195651	2014/10/01	CHARGE	\$2,400,000	JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	C
YR2234798	2014/12/19	CHARGE	\$8,000,000	JADE-KENNEDY DEVELOPMENT CORPORATION	MARSHALLZEHR GROUP INC.	C
YR2238302	2014/12/31	CONSTRUCTION LIEN	\$249,916	GUEST TILE INC.	JADE-KENNEDY DEVELOPMENT CORPORATION YORK REGION STANDARD CONDOMINIUM PLAN NO. 1228	C
YR2238316	2014/12/31	CONSTRUCTION LIEN	\$10,826	DRAGLAM WASTE & RECYCLING INC.		C
YR2238990	2015/01/05	CONDO AMENDMENT		JADE-KENNEDY DEVELOPMENT CORPORATION		C
		REMARKS: YR1966697. YRCP1228.				
YR2250103	2015/01/30	NO CHNG ADDR CONDO		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
YR2254502	2015/02/10	CERTIFICATE		DRAGLAM WASTE & RECYCLING INC.		C

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YR2254665	2015/02/11	CERTIFICATE		GUEST TILE INC.		C
		REMARKS: YR2238302				
YR2473513	2016/05/18	TRANSFER OF CHARGE		LAURENTIAN BANK OF CANADA	MARSHALLZEHR GROUP INC.	C
		REMARKS: YR2195650.				

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TAB C

SOUTH UNIONVILLE SQUARE
COMMERCIAL UNITS
POST REGISTRATION

AGREEMENT OF PURCHASE AND SALE

Unit(s) 2806x Level 2
Suite 360 27400

The undersigned, LL, YUAN
(collectively, the "Purchaser"), hereby agree with JADE-KENNEDY DEVELOPMENT CORPORATION, by COLLINS BARRON TORONTO LIMITED as Court Appointed Trustees Under the Construction Lien Act (the "Vendor") to purchase the above captioned Unit(s) as outlined for identification purposes only on the sketch attached hereto as Schedule "A", being a unit in York Region Standard Condominium Plan No. 1228 located at 2806x-360 Collins Barron Toronto Markham, Markham, Ontario together with an undivided interest in the common elements appurtenant to such unit and the exclusive use of those parts of the common elements attaching to such unit, if any, as set out in the Declaration (collectively, the "Unit") on the following terms and conditions:

1. The purchase price of the Unit (the "Purchase Price") exclusive of Harmonized Sales Tax, is EIGHTY THOUSAND DOLLARS L3R 515 DOLLARS in lawful money of Canada payable as follows: EIGHTY THOUSAND DOLLARS
(a) to the Vendor, in the following amounts at the following times, by cheque or bank draft, as a deposit pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Unit Transfer Date:
(i) the sum of Fifteen Thousand Dollars (15,000) Dollars submitted with this Agreement, as a deposit; and
(ii) the balance of the Purchase Price by certified cheque drawn on the trust account of the Purchaser's solicitor on the Unit Transfer Date, subject to the adjustments hereinafter set forth;

2. (a) The transfer of title to the Unit shall be completed on October 25, 2017 (the "Unit Transfer Date").
(b) The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is as follows:
Address: 24 LONGMEADOW CRESCENT
State # Markham City ONTARIO Postal Code L3R 5T5
Telephone (B): 905-889-4745 Fax 416-302-7356
Facsimile: _____ E-Mail address: finali71@yahoo.com
(c) The Purchaser acknowledges that this Agreement is conditional, upon the Vendor being satisfied in its sole discretion, with the terms and conditions of this Agreement. The Vendor shall have fifteen (15) days from the date of acceptance of this Agreement by the Vendor to provide written notice to the Purchaser to the address in paragraph 2(b) hereof, to terminate this Agreement, failing which the Vendor shall be deemed to have waived this condition and this Agreement shall be firm and binding. The Purchaser acknowledges that this condition is included for the sole benefit of the Vendor and may be waived by the Vendor at its sole option, at any time.

Paragraphs 3 through 42 and Schedules "A" and "B" of this Agreement are an integral part hereto and are contained on subsequent pages. The Purchaser acknowledges that he has read all paragraphs and schedules of this Agreement.

DATED at Markham, this 24 day of Sept., 2017.
SIGNED, SEALED AND DELIVERED in the presence of
PURCHASER: [Signature] D.O.B. 1971/10/23 S.I.N. 540-136-660
PURCHASER'S SOLICITOR: Joachim M Lebl D.O.B. _____ S.I.N. _____
Address: Unit 10-3880 Midland Ave.
Telephone: 416-609-8289 Facsimile: 416-609-8887

The undersigned, accept the above offer and agree to complete this transaction in accordance with the terms thereof.
DATED at Markham, this 7th day of Sept, 2017.

Vendor's Solicitors:
Harris, Sheffer, LLP
Suite 810 - 4180 Yonge Street
Toronto, Ontario M2P 2B5
Phone: 416-280-5400 Fax 416-280-8300
Attn: Mark L. Karoly

JADE-KENNEDY DEVELOPMENT CORPORATION
BY Collins Barron Toronto Limited as Court Appointed Trustees
under the Construction Lien Act
Per: [Signature]
Authorized Signing Officer
I have the authority to bind the Corporation.

THIS OFFER IS SUBJECT TO TRUSTEE OBTAINING COURT APPROVAL 

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. 1228;
 - (c) "Condominium Documents" means the Creating Documents, the by-laws and rules of the Condominium, the disclosure statement and budget statement together with all other documents and agreements which are entered into by the Vendor on behalf of the Condominium or by the Condominium directly prior to the turnover of the condominium, as may be amended from time to time;
 - (d) "Corporation" means York Region Standard Condominium Corporation No. 1228;
 - (e) "Creating Documents" means the declaration and description which were registered against title to the Property and which served to create the Condominium, as may be amended from time to time;
 - (f) "Property" shall mean the lands and premises upon which the Condominium is constituted described as York Region Standard Condominium Plan No. 1228, in the Land Titles Division of the York Registry Office (No. 65)

Vendor's Work

4. The Purchaser acknowledges that unless Schedule "A" is completed (being work to be completed by the Vendor prior to the Unit Transfer Date, the Unit is being purchased in "as-is" condition.

Adjustments

5. The Purchase Price shall be adjusted to reflect the following items, which shall be apportioned and allowed to the Unit Transfer Date, with that day itself apportioned to the Purchaser
- (a) Realty taxes (including local improvement charges, if any), interest payable in accordance with the Act, shall be apportioned and allowed to the Unit Transfer Date. With respect to the realty taxes (including local improvement charges), the same shall be estimated as if the Unit had been fully assessed by the relevant taxing authority for the calendar year in which the transaction is completed, and shall be adjusted as if such taxes had been paid by the Vendor, notwithstanding the same may not have been levied or paid by the Unit Transfer Date, subject however, to readjustment upon the actual amount of such taxes being ascertained.
 - (b) The Purchaser shall be responsible for and shall pay on the Unit Transfer Date 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.
 - (c) An administration fee of TWO HUNDRED AND FIFTY (\$250.00) DOLLARS shall be charged to the Purchaser for any cheque delivered to the Vendor and not accepted by the Vendor's bank for any reason.
 - (d) It is acknowledged and agreed by the parties hereto that the Purchase Price is inclusive of the federal portion and the provincial portion of the harmonized goods and services tax payable with respect to this purchase and sale transaction (hereinafter and hereinafter referred to as the "HST"), and that the Purchaser shall pay to the Vendor the HST and the Vendor shall remit the HST to CRA on behalf of the Purchaser forthwith following the completion of this transaction or alternatively the Purchaser shall provide, execute and deliver to the Vendor all requisite documents and assurances that the Vendor may require and as required by the CRA for the purchase of commercial property in lieu of payment of the HST.
 - (e) Notwithstanding any other provision herein contained in this Agreement, the Purchaser further 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 and the Purchaser covenants and agrees to pay such HST to the Vendor in accordance with the Excise Tax Act (Canada) and any applicable Ontario legislation governing the payment of the provincial portion of the HST.

Title

6. The Purchaser shall be allowed fifteen (15) days following the date of the execution of this Agreement by the Purchaser (the "Examination Period") to examine title to the Unit at the Purchaser's own expense and shall not call for the production of any surveys, title deeds, abstracts of title, grading certificates, occupancy permits or certificates, nor any other proof or evidence of the title or occupiability 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. Except as to any valid objections so made within the Examination Period, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Unit. The Purchaser acknowledges and agrees that the Vendor shall be entitled to respond to some or all of the requisitions submitted by or on behalf of the Purchaser through the use of a standard title memorandum or the 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.
7. The Purchaser hereby agrees to submit to the Vendor or the Vendor's Solicitor on the Unit 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 Unit Transfer Date engrossed in the name of the Purchaser as shown on the face of this Agreement.
8. The Purchaser agrees to accept title subject to the following:
- (i) the Condominium 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 Unit Transfer Date;
- (iii) easements, rights-of-way and/or licences now registered (or to be registered hereafter) for the supply and installation of utility services, drainage, telephone services, electricity, gas, storm and/or sanitary sewers, water, cable television and/or any other service(s) to or for the benefit of the Condominium (or to any adjacent or neighbouring properties), including any easement(s) which may be required by the Vendor (or by the owner of the Property, if not one and the same as the Vendor), or by any owner(s) of adjacent or neighbouring properties, for servicing and/or access to (or entry from) such properties, together with any easement and cost-sharing agreement(s) or reciprocal agreement(s) confirming (or pertaining to) any easement or right-of-way for access, egress, support and/or servicing purposes, and/or pertaining to the sharing of any services, facilities and/or amenities with adjacent or neighbouring property owners (provided that any such easement and cost-sharing agreements or reciprocal agreements are insofar as the obligations thereunder pertaining to the Property, or any portion thereof, are concerned) complied with as at the Unit 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, subdivision, engineering and/or other municipal agreement (or similar agreements entered into with any governmental authorities), with all of such agreements being hereinafter collectively referred to as the "Development Agreements", provided that same are complied with as at the Unit Transfer Date, or security has been posted in such amounts and on such terms as may be required by the governmental authorities to ensure compliance therewith and/or the completion of any outstanding obligations thereunder; and
- (v) unregistered or incroachment liens for unpaid utilities in respect of which no formal bill, account or invoice has been issued by the relevant utility authority (or if issued, the time for payment of same has not yet expired), without any claim or request by the Purchaser for any utility holdback(s) or reduction/abatement in the Purchase Price, provided that the Vendor delivers to the Purchaser the Vendor's written undertaking to pay all outstanding utility accounts owing with respect to the Property (including any amounts owing in connection with any final meter reading(s) taken on or immediately prior to the Unit 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, nor shall the Vendor be obliged to have any of same deleted from the title to the Property, and the Purchaser hereby expressly acknowledges and agrees that the Purchaser shall satisfy himself or herself as to compliance therewith. The Purchaser agrees to observe and comply with the terms and provisions of the Development Agreements, and all restrictive covenants registered on title. The Purchaser further acknowledges and agrees that the retention by the local municipality within which the Property is 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 7(a) hereof and to execute all documents and do all things requisite for this purpose, either before or after the Unit Transfer Date.
- (d) The Vendor shall be entitled to insert in the Transfer Deed of Land, specific covenants by the Purchaser pertaining to any or all of the restrictions, easements, covenants and agreements referred to herein and in the Condominium Documents, and in such case, the Purchaser may be required to deliver separate written covenants on closing, if so requested by the Vendor, the Purchaser covenants to execute all documents and instruments required to convey or confirm any of the easements, licenses, covenants, agreements, and/or rights, required pursuant to this Agreement and shall observe and comply with all of the terms and provisions thereof. The Purchaser may be required to obtain a similar covenant (enforceable by and in favour of the Vendor), in any agreement entered into between the Purchaser and any subsequent transferee of the Unit.
- (e) The Purchaser expressly acknowledges, confirms and agrees that the Vendor, its representatives and sales agents (including the agent) have made no warranty or representation whatsoever with respect to any permitted use(s) of the Unit or the availability of any permits, authorizations, consents or permissions as aforesaid, and the Vendor and its representatives and sales agents (including the agent) shall incur no claim and suffer no cost, loss, damage and/or liability whatsoever in the event that the use(s) intended to be made of the Unit by the Purchaser is not permitted or the Purchaser is unable to obtain the required permits, authorizations, consents or permissions as aforesaid.
- (f) The Purchaser acknowledges having been advised that the allowable uses of the Unit are subject to the provisions of the Condominium Documents and the Purchaser shall satisfy itself in this regard.
9. The Purchaser agrees that the Vendor shall have a Vendor's Lien for unpaid purchase monies on the Unit Transfer Date and shall be entitled to register a Notice of Vendor's Lien against the Unit any time after the Unit Transfer Date.
10. The Purchaser acknowledges that the Unit may be encumbered by mortgages (and collateral security thereto) which are not intended to be assumed by the Purchaser and that the Vendor shall not be obliged to obtain and register (partial) discharges of such mortgages insofar as they affect the Unit on the Unit Transfer Date. The Purchaser agrees to accept the Vendor's solicitors undertaking to obtain and register (partial) discharges of such mortgages in respect of the Unit, as soon as reasonably possible after the Unit Transfer Date subject to the Vendor or its solicitors providing to the Purchaser or the Purchaser's Solicitor the following:
- (a) a mortgage statement or letter from the mortgagee(s) (or from their respective solicitors) confirming the amount, if any, required to be paid to the mortgagee(s) to obtain (partial) discharges of the mortgage(s) with respect to the Unit;
- (b) a direction from the Vendor to the Purchaser to pay such amounts to the mortgagee(s) (or to whom ever the mortgagee(s) may direct) on the Unit Transfer Date to obtain a (partial) discharge of the mortgage(s) with respect to the Unit; and

- (c) an undertaking from the Vendor's Solicitor to deliver such amounts to the mortgagee and to register the (partial) discharge of the mortgages with respect to the Unit upon receipt thereof and within a reasonable time following the Unit Transfer Date and to advise the Purchaser or the Purchaser's Solicitor concerning registration particulars.
11. The Purchaser agrees to accept the Vendor's covenant of indemnity regarding any lien claims which are the responsibility of the Vendor, in full satisfaction of the Purchaser's rights under the *Construction Lien Act, R.S.O. 1990, c.C.30* and will not claim any lien holdback on the Closing Date or Unit Transfer Date, as applicable. The Vendor shall complete the remainder of the Condominium according to its schedule of completion and neither the Closing Date nor the Unit Transfer Date shall be delayed on that account.

The Planning Act

12. This Agreement and its transmission arising therefrom are conditional upon compliance with the provisions of Section 60 of the *Planning Act, R.S.O. 1990, c.P.13* and any amendments thereto on or before the Unit Transfer Date.

Purchaser's Covenants, Representations and Warranties

13. 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, 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 Unit Transfer Date, including without limitation, written confirmation of the Purchaser's income and evidence of the source of the payments required to be made by the Purchaser in accordance with this Agreement.
14. The Purchaser covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, Purchaser's Lien, or any other document providing evidence of this Agreement against title to the Property, Unit or the Condominium and further agrees not to give, register, or permit to be registered any encumbrance against the Property, Unit or the Condominium. Should the Purchaser be in default of his 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 28 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 solicitor and client basis).
15. The Purchaser covenants not to list for sale or lease, advertise for sale or lease, sell or lease, nor in any way assign his or her interest under this Agreement, or the Purchaser's rights and interests hereunder or in the Unit, nor directly or indirectly permit any third party to list or advertise the Unit for sale or lease, at any time until after the Unit Transfer Date, without the prior written consent of the Vendor, which consent may be arbitrarily withheld. The Purchaser acknowledges and agrees that once a breach of the preceding covenant occurs, such breach is or shall be incapable of rectification, and accordingly the Purchaser acknowledges and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement and the Occupancy License, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequences 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.
16. The Purchaser covenants and agrees that he or 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.
17. The Purchaser covenants and agrees that he or 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 office and model units, and the display of signs located on the Property.

Termination without Default

18. In the event this Agreement is terminated through no fault of the Purchaser, all deposit monies paid by the Purchaser towards the Purchase Price, together with any interest required by law to be paid, shall be returned to the Purchaser; provided however, that the Vendor shall not be obligated to return any monies paid by the Purchaser as an Occupancy Fee or for optional upgrades, changes or extras ordered by the Purchaser. 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.

Warranties

19. (a) The Purchaser acknowledges and agrees that the clearance by the building department of the municipality shall constitute complete and absolute acceptance by the Purchaser of all construction matters and the quality and sufficiency thereof, including, without limitation, all mechanical, electrical, structural and architectural matters. If the foregoing clearances are withheld by the municipal authority as a result of non-compliance by the Purchaser of any municipal standard, such grounds for refusal shall constitute complete and absolute acceptance by the Purchaser of all construction matters and the quality and sufficiency thereof, including, without limitation, all mechanical, electrical, structural and architectural matters.
- (b) The Vendor does not warrant any of the systems contained or installed in the Unit or common elements, but shall provide the Purchaser with the full benefit of any warranties obtained by it to the extent that it is able to do so pursuant to the terms of the warranties. The Purchaser agrees to accept such warranties in lieu of any other warranties or guarantees, expressed or implied, at equity or at law, it being understood and agreed that there is

no representation, warranty, guarantee, collateral agreement or condition precedent to, concurrent with or in any way affecting this Agreement or the Unit, other than as expressed herein in writing.

- (c) The Purchaser acknowledges that the Vendor may substitute such other materials in the construction of the Unit from time to time from those specified or contemplated in the aforesaid plans or specifications, provided that any substituted material(s) is equal to or better than the material(s) originally indicated in said plans or specifications.

Right of Entry

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

Purchaser's Default

21. In the event that the Purchaser is in default with respect to any of his or her obligations contained in this Agreement, and should such default continue for five (5) days after written notice thereof has been given to the Purchaser or the Purchaser's Solicitor, by the Vendor or its Solicitor, then in addition to any other rights or remedies which the Vendor may have, the Vendor, at its option, shall have the right to declare this Agreement null and void and in such event all deposit monies paid hereunder (including all monies paid to the Vendor with respect to extras or changes to the Units entered by the Purchaser) shall be the absolute property of the Vendor, in any event, and without prejudice to or limiting the rights of the Vendor, the Vendor may also claim for damages in excess of the deposit monies so retained by the Vendor. If the Vendor is required to pay any lien, execution or encumbrance to obtain a mortgage advance, the Purchaser shall reimburse the Vendor for all amounts and costs so paid.

Common Elements

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

Risk

23. The Unit shall be and remain at the risk of the Vendor until the Unit 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

24. The Vendor shall provide a statutory declaration on the Unit Transfer Date that it is not a non-resident of Canada within the meaning of the Income Tax Act (Canada).
25. The Vendor and Purchaser agree to pay the costs of registration of their own documents and any tax in connection therewith.
26. 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.
27. 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 so the intent of this Agreement permits, their respective heirs, estate trustees, successors and assigns.
28. It is acknowledged and agreed by the Purchaser that the dimensions, floor area or square footage of the Unit, as represented in the Purchaser in any brochure, sketch, floor plan, or other advertising material is approximate, is not the same and may differ from the actual size and defined boundaries of the Unit as provided for in the Declaration and the Description, and the Purchaser consents to same. The Purchaser is further advised that the actual usable floor space may vary from any stated floor area. Notwithstanding any stated ceiling height (whether in any schedule to this Agreement or in any brochure, sketch, floor plan or other advertising material), where ceiling bulk heads are installed within the Unit and/or where drop ceilings are required, then the ceiling height of the Unit will necessarily be less than that stated in any brochure, sketch, floor plan or other advertising material and the Purchaser shall be obliged to accept the same without any statement or claim for compensation whatsoever.
29. (a) The parties waive personal tender and agree that tender, in the absence of any other mutually acceptable arrangement and subject to the provisions of paragraph 34 of this Agreement shall be validly made by the Vendor upon the Purchaser, by a representative of the Vendor attending at the offices of Harris, Sheffer, LLP at 12:00 noon on the Unit Transfer Date or the Closing Date as the case may be and remaining there until 4:30 p.m. and is ready, willing and able to complete the transaction. 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 subparagraph 29(a) hereof, in the event the Purchaser or his Solicitor advise the Vendor or his Solicitors, on or before the Closing Date or Unit 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 further 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.
30. 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 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 Unit 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:
- (i) shall not occur contemporaneously with the registration of the Transfer/Deed (and other registrable documentation); and
- (ii) shall be governed by the Escrow Document Registration Agreement, pursuant to which the solicitor receiving the documents, keys and/or certified funds will be required to hold same in escrow, and will not be entitled to release same except in strict accordance with the provisions of the Escrow Document Registration Agreement.
- (c) The Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the Transfer/Deed to the Unit for registration until the balance of funds due on closing, in accordance with the statement of adjustment, are either remitted by certified cheque via personal delivery or by electronic funds transfer to the vendor's solicitor (or in such other manner as the latter may direct) prior to the release of the Transfer/Deed for registration.
- (d) Each of the parties hereto agrees that the delivery of any documents not intended for registration on file in 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 affidavit 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 witnessing the foregoing.
31. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
32. The headings of this Agreement form no part hereof and are inserted for convenience of reference only.
33. Each of the provisions of this Agreement shall be deemed independent and severable and the invalidity of 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.
34. The Purchaser acknowledges that the Vendor may from time to time lease any and all unused units in the Condominium for commercial purposes and this paragraph shall constitute notice to the Purchaser as registered owner of the Unit after the Unit Transfer Date pursuant to the Act.
36. (a) If any documents required to be executed and delivered by the Purchaser to the Vendor are, in fact, executed by a third party appointed as the attorney for the Purchaser, then the power of attorney appointing such person must be registered in the Land Titles office where the Lands are registered, and a duplicate registered copy thereof together with a statutory declaration sworn by the Purchaser's solicitor unequivocally confirming, without any qualification whatsoever, that said power of attorney has not been revoked shall be delivered to the Vendor along with such documents.
- (b) Where the Purchaser is a corporation, or where the Purchaser is buying in trust for a corporation to be incorporated, the execution of this Agreement by the principal or principals of such corporation, or by the person named as the Purchaser in trust for a corporation to be incorporated, as the case may be, shall be deemed and construed to constitute the personal guarantee of such person or persons as signing with respect to the obligations of the Purchaser herein.

Notice

36. Any 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 Closing Date and to the Vendor at 8781 Woodbine Avenue, Suite 100, Markham, Ontario, L3R 0P4 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 or by electronic mail, one day following facsimile transmission and upon the third day following posting, excluding Saturdays, Sundays and holidays.

Cause of Action/Assignment

37. (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 other 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 Unit 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 and upon any such assignee assuming all obligations under this Agreement and notifying the Purchaser or the Purchaser's solicitor of such assignment, the Vendor named herein shall be automatically released from all obligations and liabilities to the Purchaser arising from this Agreement, and said assignee shall be deemed for all purposes to be the vendor herein as if it had been an original party to this Agreement, in the place and stead of the Vendor.

Irrevocability

38. This offer by the Purchaser, shall be irrevocable by the Purchaser until the 15th day (excluding Saturdays, Sundays and statutory holidays) following the date of his or her execution of this Agreement, after which time, this offer may be withdrawn, and if so, same shall be null and void and the deposit shall be returned to the Purchaser without interest or deduction. Acceptance by the Vendor of this offer shall be deemed to have been sufficiently made if this Agreement is executed by the Vendor on or before the irrevocable date specified in the preceding sentence, without requiring any notice of such acceptance to be delivered to the Purchaser prior to such time. Without limiting the generality of the foregoing, acceptance of this offer (or any counter-offer with respect thereto) may be made by way of telex transmission (or similar system reproducing the original) provided all of the necessary signatures and initials of both parties hereto are duly reflected on (or represented by) the teletyped copy of the agreement of purchase and sale so transmitted, and such acceptance shall be deemed to have been effected or made when the accepted offer (or counter-offer, as the case may be) is teletyped to the intended party, provided that a confirmation of such teletyped transmission is received by the transmitting party at the time of such transmission, and the original executed document is thereafter forthwith couriered (or personally delivered) to the recipient of the teletyped copy.

Non-Merger

39. The covenants and agreements of each of the parties hereto shall not merge on the Unit 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/Vacoin Provisions

40. (a) The Purchaser is hereby advised that noise levels caused by the Condominium's mechanical equipment, the loading and unloading of tractor trailers on the exclusive use common elements and the daily operation of businesses within Units may occasionally cause noise and inconvenience to Unit occupants.
- (b) 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 Closing, 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.
- (c) 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.

Purchaser's Work - DTD: Please review this section carefully and advise what portions, if any, you will need to include in this Agreement.

41. The Purchaser agrees that he or she shall not be entitled to commence improvements which he or she wishes to make to the Unit (the "Purchaser's Work") without fulfilling the following conditions:
- (a) The Purchaser has obtained the written approval of the Vendor prior to any commencement of the Purchaser's Work, which approval shall not be unreasonably withheld;
- (b) (i) If the Purchaser wishes to commence the Purchaser's Work, the Purchaser shall submit to the Vendor for approval in accordance with the Vendor's requirements a complete set of plans, drawings, specifications, construction schedule(s), construction contract(s) and other information (collectively, the "Purchaser's Plans") as may be necessary or desirable for the complete and particular identification of all work to be performed by the Purchaser.
- (ii) The Purchaser's Plans shall be subject to the approval of the Vendor, which approval shall not be unreasonably or arbitrarily withheld. The Vendor shall notify the Purchaser of its approval of the Purchaser's Plans or of the specific changes required in writing and the Purchaser shall then prepare and submit to the Vendor within ten (10) days revised Purchaser's Plans satisfactory to the Vendor.

- (M) No Purchaser's Work shall be commenced until the Purchaser's Plans have been approved in writing by the Vendor and the Purchaser's Work shall be performed strictly in accordance with the Purchaser's Plans as previously approved to be in writing by the Vendor. The Vendor shall be entitled to an administration fee for reviewing and approving the Purchaser's Plans, which fee shall be equivalent to Nine Hundred and Fifty (\$950.00) Dollars per unit. A set of the Purchaser's Plans with the Vendor's consent endorsed thereon shall be kept at the Unit at all times throughout the period when the Purchaser's Work is being performed. The Vendor may, at its sole option, at the expense of the Purchaser, payable on demand, rectify or remove any Purchaser's Work which does not comply with the Purchaser's Plans as previously approved by the Vendor, the Ontario Building Code or any other governmental requirements.
- (N) The Purchaser shall not be permitted to perform any Purchaser's Work in the common elements.
- (O) The Purchaser shall keep the Unit insured during the period of time in which the Purchaser is carrying out the Purchaser's Work as may be required by the Condominium and/or the Vendor, including builders risk insurance during the course of construction of Purchaser's Work, liability insurance of a minimum of Two Million (\$2,000,000.00) Dollars and worker's compensation coverage. The Purchaser shall be responsible for and keep insured all improvements to the standard unit and shall assume all liability in respect of same.
- (P) Prior to the performing any work, the Purchaser shall obtain all necessary consents, permits, licenses, certificates and inspections from all municipal, governmental and regulatory authorities having jurisdiction, and shall deliver to the Vendor copies of same and shall post permits as required.
- (Q) (i) All the Purchaser's Work, as well as the operations which the Purchaser carries out within the Unit, shall comply with all applicable laws, by-laws, building codes, permits and approvals for such work, as well as with the requirements of the Vendor's and/or the Condominium's insurers. If any of the foregoing are not in compliance and the Purchaser fails to remedy such non-compliance forthwith, the Vendor may, at its sole option, remedy same, at the Purchaser's expense, payable on demand.
- (ii) The Purchaser shall in no event make any structural alterations nor any alterations which shall alter the structural parts of the building constituting part of the common elements.
- (iii) Any damage to the Unit, the Condominium or the Property during the performance of the Purchaser's work by the Purchaser, its contractors, subcontractors, tradesmen or material suppliers shall immediately be repaired by the Purchaser or, at the Vendor's option, by the Vendor, at the expense of the Purchaser, payable on demand.
- (iv) Upon termination of this Agreement, the Purchaser shall forthwith remove all of the Purchaser's Work from the Unit and restore the Unit to its original condition as it existed on the day immediately prior to the date the Purchaser's Work commenced or, at the Vendor's option, the Purchaser's Work to the extent it has been completed shall then remain in the Unit and shall become the property of the Vendor.
- (R) The opinion in writing of the Vendor's architect or other qualified consultants shall be binding on both the Vendor and the Purchaser respecting all matters of dispute regarding the Purchaser's Work, including the date of completion and whether or not the Purchaser's Work is completed in a good and workmanlike manner and in accordance with the Vendor's requirements, the Purchaser's Plans as approved by the Vendor and this Agreement.
- (S) The Purchaser shall ensure that no construction lien or any other lien affects the Condominium or the Property or any part thereof, including the Unit, in respect of materials supplied or work done or to be done by the Purchaser or on behalf of the Purchaser or related to the Purchaser's Work and if the Purchaser fails to discharge or cause any such lien to be discharged no later than five (5) days after notice thereof has been given to the Purchaser, then in addition to any other rights or remedies of the Vendor, the Vendor may, but shall not be obligated to, discharge the lien by paying the amount claimed to be due into court or directly to the lien claimant and the amount so paid and all costs and expenses (including legal costs on a solicitor and his client basis), shall be payable by the Purchaser to the Vendor forthwith on demand.
- (T) The Purchaser acknowledges that in the event that he or she acquires title to the Unit prior to the commencement of construction of improvements to the Unit, he or she shall also be obligated to obtain such consents as are necessary from the Condominium and abide by the terms of the Condominium Documents and the Condominium Act in regard to such construction.
- (U) The Purchaser shall be obligated to obtain any occupancy permit required by any municipal, governmental, or regulatory authority having jurisdiction and shall make available to the Vendor copies of same.
- (V) Whenever in this paragraph the Vendor performs work due to some default by the Purchaser which the Purchaser is required to pay for, then the Purchaser shall, together with all other recoveries permitted hereunder, pay to the Vendor, an administration fee equal to fifteen per cent (15%) of the recoveries.
- (W) The Purchaser covenants and agrees that the Purchaser shall not, either before or after closing, be allowed to erect, affix, or maintain any signage whatsoever, advertising the name of the occupiers of the Unit and/or the use of the Unit and/or other matters, in any portion of the common elements, including without limitation to the interior or exterior surfaces of any windows or doors adjacent to the Unit, except as herein specifically provided or as provided under the Condominium Documents.
- Pylon signage shall, subject to the terms of the Condominium Documents, comprise a separate unit in location(s) determined by the Vendor. Subject to availability at any given time, and subject to entering into a lease or licence with the owner of the Sign Unit, a Purchaser will be permitted to attach a sign to the pylon sign(s) as per the direction of the owner of the Sign Unit.

In the event of failure of the Purchaser to comply with any of the provisions of this paragraph, including the provisions to pay to the Vendor on demand any amounts expended by the Vendor in accordance with the provisions thereof, the Vendor may, at its option, by notice to the Purchaser, declare this Agreement null and void, and retain all deposit moneys paid hereunder, together with any interest earned thereon, as liquidated damages and not as a penalty.

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

42. For the purposes of facilitating compliance with the provisions of any applicable Federal and/or Provincial privacy legislation (including without limitation, the Personal Information Protection and Electronic Documents Act, S.C. 2000, as



LA

amended), the Purchaser hereby consents to the Vendor's collection and use of the Purchaser's personal information necessary and sufficient to enable the Vendor to proceed with the Purchaser's purchase of the Unit, including without limitation, the Purchaser's name, home address, e-mail address, telephone/telex number, age, date of birth, and in respect of marital status only for the limited purposes described in subparagraphs (c), (g), (h) and (j) below, and in respect of residency status, and social insurance number only for the limited purpose described in subparagraph (h) below, as well as the Purchaser's financial information and desired suite design(s) and colour/finish selections, in connection with the completion of this transaction and for post-closing and after-sales customer care purposes, and to the disclosure and/or distribution of any or all of such personal information in the following entities, on the express understanding and agreement that the Vendor shall not sell or otherwise provide or distribute such personal information to anyone other than the following entities, namely to:

- (e) any companies or legal entities that are associated with, related to or affiliated with the Vendor, other future condominium developments 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;
- (f) 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;
- (g) any financial institution(s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, including without limitation, the Vendor's construction lender(s), the project monitor, the Vendor's designated construction lender(s), 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;
- (h) any insurance companies providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof) and/or the common elements of the Condominium, including without limitation, any life insurance companies providing (or wishing to provide) life insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of this transaction;
- (i) 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;
- (j) 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, unless the Purchaser advises the Vendor in writing not to provide such personal information to an entity providing security alarm systems and services;
- (k) 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 Canada Revenue Agency (i.e. with respect to HST);
- (l) Canada Revenue Agency, to whose attention the T-3 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) of The Income Tax Act R.S.C. 1985, as amended;
- (m) the Vendor's solicitors, to facilitate the interim occupancy and/or final closing of this transaction, including the closing by electronic means via the Torview 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;
- (n) the condominium corporation, for purposes of facilitating the completion of the corporation'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; and
- (o) any person, where the Purchaser further consents to such disclosure or disclosures required by law.

SCHEDULE "A" of AGREEMENT OF PURCHASE AND SALE
VENDOR'S WORK

Other than the Vendor's Work described below (if applicable) the Purchaser accepts the Unit in "as-is" condition.

[A large, curved, handwritten line, possibly a signature or a large mark, spans across the middle of the page.]

[Handwritten mark in a circle, possibly initials.]

[Small handwritten mark.]

SCHEDULE "B" TO AGREEMENT OF PURCHASE AND SALE

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

1. A Disclosure Statement dated February 17, 2008, a Supplemental Disclosure Statement dated April 28, 2008 and accompanying documents in accordance with Section 72 of the Act.
2. The Budget.
3. The Declaration of York Region Standard Condominium Corporation No. 1228 registered in the Land Registry office for the Land Titles Division of York on April 17, 2013 as Instrument No. YR1870477;
4. By-law No. 1 of the Condominium Corporation registered in the aforesaid Land Registry Office on April 29, 2013 as Instrument No. YR1870477;
5. By-law No. 2 of the Condominium Corporation registered in the aforesaid Land Registry Office on April 29, 2013 as Instrument No. YR1870484;
6. Management Agreement between the Condominium Corporation and *PH Property Marketing & Consulting Inc.*
7. Rules of the Condominium Corporation.
8. A copy of the Agreement of Purchase and Sale (to which this acknowledgment is attached as a Schedule) executed by the Vendor and the Purchaser

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

DATED at Markham this 24 day of Sept, 2017

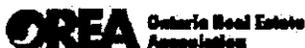
WITNESS:

[Handwritten signature]

[Handwritten signature]
Purchaser

Purchaser

[Handwritten initials]



Confirmation of Co-operation and Representation



Form 320
for use in the Province of Ontario

BUYER: LI, YUAN

SELLER: Collins Barrow Toronto Limited as Trustee for Jade-Kennedy Development Corporation

For the transaction on the property known as: ^{AR06X} 3339-8339 Kennedy Road Markham Ontario L3R 5T5

DEFINITIONS AND INTERPRETATIONS 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. Commission shall be deemed to include other remuneration.

The following information is confirmed by the undersigned salesperson/broker representative 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 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 (REBA 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 REPRESENTATIONS** 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 Brokerage.....represent 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
 - 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.)

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


BUYER


CO-OPERATING BUYER BROKERAGE


SELLER


LISTING BROKERAGE

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

CO-OPERATING BROKERAGE- REPRESENTATION:

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

CO-OPERATING BROKERAGE- COMMISSION:

- a) The Listing Brokerage will pay the Co-operating Brokerage the commission as indicated in the MLS® information for the property
As Indicated in MLS information 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.

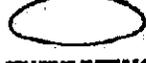
SIGNED BY THE BROKER/SALESPERSON REPRESENTATIVE(S) OF THE BROKERAGE(S) (Where applicable)

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: Sept 24 2017
(Authorized to bind the Co-operating/Buyer Brokerage)
BELINDA WAL-NING NG
(Print Name of Broker/Salesperson Representative of the Brokerage)

Century 21, Leading Edge Realty Inc.
(Name of Listing Brokerage)
 165 Main Street North Markham Ontario L3P 1Y2
 Tel: 905-471-2121 Fax: 905-471-0832
 Date: _____
(Authorized to bind the Listing Brokerage)
LOUIE LUK
(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.

李曉 Date: Sept. 24, 2017
(Signature of Buyer)
 _____ Date: _____
(Signature of Buyer)

[Signature] Date: SA 28/17
(Signature of Seller)
 _____ Date: _____
(Signature of Seller)

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CANADIAN DOLLAR DRAFT

488511

4723 STEELES AV EAST
SCARBOROUGH ON M1V 4S5

DATE 29 1, 7, 1995

PAY TO ORDER OF COLLINS BARROW TORONTO LIMITED AS TRUSTEE OF
JADE-KENNEDY DEVELOPMENT CORP.

\$ 15,000.00

SUM OF EXACTLY 15,000 DOLLARS ***** 00/100

CANADIAN FUNDS

TO:
ANY BRANCH OF
THE BANK OF NOVA SCOTIA

AUTH NO. <i>1158</i>	THE BANK OF NOVA SCOTIA
AUTH NO. <i>1158</i>	AUTHORIZED OFFICER <i>[Signature]</i>

⑆488511⑆ ⑆38562⑆002⑆ 00000⑆43 28472⑆

08104

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Amendment to Agreement of Purchase and Sale

Form 120
for use in the Province of Ontario

BETWEEN BUYER, LI, YUAN

AND SELLER, Collins Barrow Toronto Limited as trustee of Jade-Kennedy Development Corporation

RE: Agreement of Purchase and Sale between the Seller and Buyer, dated the 24 day of September, 2017, concerning the property known as 2806x-8339 Kennedy Road, (suite 360) Markham Ontario L3R 5T5 as more particularly described in the aforementioned Agreement.

The Buyer(s) and Seller(s) herein agree to the following amendment(s) to the aforementioned Agreement:

Insert/Delete:

Insert:

The undersigned, 2599406 Ontario Inc. (collectively, the "Purchaser")

Delete:

The undersigned, Li, Yuan (collectively, the "Purchaser")

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

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IRREVOCABILITY: This Offer to Amend the Agreement shall be irrevocable by Buyer until a.m./p.m. on the 13 day of October, 2017, after which time, if not accepted, this Offer to Amend the Agreement shall be null and void.

For the purposes of this Amendment to Agreement, "Buyer" includes purchaser and "Seller" includes vendor. Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective solicitors who are hereby expressly appointed in this regard.

All other Terms and Conditions in the aforementioned Agreement to remain the same.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:
(Witness) [Signature] Yuan Li 李媛 (Buyer/Seller) DATE Oct 12/17 (Seal)

I, the Undersigned, agree to the above Offer to Amend the Agreement.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:
(Witness) [Signature] [Signature] (Buyer/Seller) DATE Oct 13/17 (Seal)

The undersigned spouse of the Seller hereby consents to the amendment(s) hereinbefore set out.

(Witness) (Spouse) DATE

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at a.m./p.m. this 13 day of October, 2017.

[Signature] (Signature of Seller or Buyer)

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Amendment to Agreement and I authorize the Brokerage to forward a copy to my lawyer.

[Signature] DATE Oct 13/17
(Seller) DATE
Address for Service
Tel.No.
Seller's Lawyer
Address
Email
Tel.No. FAX No.

I acknowledge receipt of my signed copy of this accepted Amendment to Agreement and I authorize the Brokerage to forward a copy to my lawyer.

[Signature] DATE Oct 12/17
(Buyer) DATE
Address for Service
Tel.No.
Buyer's Lawyer
Address
Email
Tel.No. FAX No.



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TAB D



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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

29759-0714 (LT)

PAGE 1 OF 6
PREPARED FOR CClark18
ON 2017/10/10 AT 13:23:42

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: 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

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

RECENTLY:

CONDOMINIUM FROM 02963-3601

PIN CREATION DATE:

2013/04/22

OWNERS' NAMES

JADE-KENNEDY DEVELOPMENT CORPORATION

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2013/04/22 **						
MA31145	1951/07/26	BYLAW		THE CORPORATION OF THE TOWNSHIP OF MARKHAM		C
	REMARKS: BY-LAW NO. 1309 RE: BUILDING RESTRICTIONS SEE			A-528776 (AFFECTS ALL/PT LANDS) ADDED 97/08/18 12:21 BY LOIS YAKIWCHUK		
YR686388	2005/08/18	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: PICKERING AIRPORT SITE ZONING REG. (SOR/10000-636)					
YR686395	2005/08/18	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: AERONAUTICS ACT AND THE PICKERING AIRPORT SITE ZONING REGULATIONS (SOR/10000-636)					
YR694205	2005/08/31	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: AERONAUTICS ACT AND THE PICKERING AIRPORT SITE ZONING REGULATIONS (SOR/10000-636) AFFECTS FIRSTLY LANDS					
YR753574	2005/12/21	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
	REMARKS: AERONAUTICS ACT AND PICKERING AIRPORT SITE ZONING REGULATION AFFECTS THIRDLY AND FIFTHLY LANDS					
YR1444874	2010/02/24	CHARGE	\$30,000,000	JADE-KENNEDY DEVELOPMENT CORPORATION	AVIVA INSURANCE COMPANY OF CANADA	C
YR1445317	2010/02/25	CHARGE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
YR1445318	2010/02/25	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
	REMARKS: RENTS - YR1445317					
YR1445330	2010/02/25	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	LAURENTIAN BANK OF CANADA	C
	REMARKS: YR1444874 TO YR1445317					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



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PAGE 2 OF 6
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ON 2017/10/10 AT 13:23:42

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1445332	2010/02/25	NOTICE OF LEASE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	T. & T. SUPERMARKET INC.	
YR1445352	2010/02/25	NO ASSGN RENT SPEC		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1445332. YR1445317				
YR1446522	2010/02/26	CHARGE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	D. MADY INVESTMENTS (2010) INC.	
YR1446523	2010/02/26	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	D. MADY INVESTMENTS (2010) INC.	
		REMARKS: RENTS - YR1446522				
YR1495979	2010/06/15	NOTICE	\$2	THE CORPORATION OF THE TOWN OF MARKHAM	JADE-KENNEDY DEVELOPMENT CORPORATION	C
YR1495980	2010/06/15	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	C
		REMARKS: YR1444874 TO YR1495979				
YR1495981	2010/06/15	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1445317 TO YR1495979				
YR1495982	2010/06/15	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1446522 TO YR1495979				
YR1499090	2010/06/18	NOTICE		THE CORPORATION OF THE TOWN OF MARKHAM	JADE-KENNEDY DEVELOPMENT CORPORATION	C
		REMARKS: PT 4 65R30830 PT 5 65R30830 PT 8 65R30830 - AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1533097	2010/08/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1446522 TO YR1499090 AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1533098	2010/08/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1445317 TO YR1499090 AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1533099	2010/08/13	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	C
		REMARKS: YR1444874 TO YR1499090 AFFECTS FIRSTLY, SECONDLY, FOURTHLY AND FIFTHLY LANDS				
YR1615462	2011/02/28	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	

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* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: YR1445317				
YR1615474	2011/02/28	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	LAURENTIAN BANK OF CANADA	C
		REMARKS: YR1444874 TO YR1445317				
YR1615475	2011/02/28	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1446522 TO YR1445317				
YR1616829	2011/03/02	NOTICE	\$2	THE CORPORATION OF THE TOWN OF MARKHAM	JADE-KENNEDY DEVELOPMENT CORPORATION THE REGIONAL MUNICIPALITY OF YORK	C
YR1616917	2011/03/02	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1445317 TO YR1616829				
YR1616918	2011/03/02	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE TOWN OF MARKHAM	C
		REMARKS: YR1444874 TO YR1616829				
YR1616919	2011/03/02	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	THE CORPORATION OF THE TOWN OF MARKHAM	
		REMARKS: YR1446522 TO YR1616829				
YR1657121	2011/06/02	TRANSFER EASEMENT	\$2	JADE-KENNEDY DEVELOPMENT CORPORATION	ROGERS COMMUNICATIONS INC.	C
YR1699150	2011/08/22	APL (GENERAL)		*** DELETED AGAINST THIS PROPERTY *** T & T SUPERMARKET INC.	JADE-KENNEDY DEVELOPMENT CORPORATION	
		REMARKS: YR1445332				
YR1721683	2011/10/03	CHARGE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	AVIVA INSURANCE COMPANY OF CANADA	
YR1721715	2011/10/03	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	AVIVA INSURANCE COMPANY OF CANADA	
		REMARKS: YR1446522 & YR1446523 TO YR1721683 DELETED BY		YR2005313. DELETED BY CATHY BULMER 2013/09/06		
YR1763873	2011/12/23	CHARGE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
YR1763874	2011/12/23	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1763873.				

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1763902	2011/12/23	NO ASSGN RENT SPEC		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1445332.				
YR1763907	2011/12/23	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC.	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1446522 TO YR1763873				
YR1763923	2011/12/23	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1445317				
YR1764062	2011/12/23	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** AVIVA INSURANCE COMPANY OF CANADA	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1721683 TO YR1763873				
YR1832081	2012/06/01	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	
		REMARKS: YR1763873				
YR1832265	2012/06/01	NOTICE		*** DELETED AGAINST THIS PROPERTY *** JADE-KENNEDY DEVELOPMENT CORPORATION	D. MADY INVESTMENTS (2010) INC.	
		REMARKS: CHARGE NO. YR1446522, SECURITY OF CHARGE YR1832114 OTHER LANDS				
YR1895409	2012/10/05	NO SEC INTEREST	\$2	MOREENERGY CAPITAL CORPORATION		C
YR1954840	2013/03/13	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	JADE-KENNEDY DEVELOPMENT CORPORATIN	C
YR1954841	2013/03/13	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	C
		REMARKS: YR1446874 TO YR1954840				
YR1954842	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** AVIVA INSURANCE COMPANY OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1721683 TO YR1954840				
YR1954843	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1445317 TO YR1954840				
YR1954844	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** LAURENTIAN BANK OF CANADA	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1763873 TO YR1954840				

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1954845	2013/03/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** D. MADY INVESTMENTS (2010) INC. DELETED BY CATHY BULMER 2013/09/05	THE CORPORATION OF THE CITY OF MARKHAM	
		REMARKS: YR1446522 TO YR1954840 DELETED BY YR2005313.				
YRCP1228	2013/04/17	STANDARD CONDO PLN				C
YR1966697	2013/04/17	CONDO DECLARATION		JADE KENNEDY DEVELOPMENT CORPORATION		C
YR1970477	2013/04/29	CONDO BYLAW/98		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
		REMARKS: BY-LAW NO. 1				
YR1970484	2013/04/29	CONDO BYLAW/98		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
		REMARKS: BY-LAW NO. 2				
YR1972811	2013/05/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** LAURENTIAN BANK OF CANADA		
		REMARKS: YR1763873.				
YR1975398	2013/05/10	DISCH OF CHARGE		*** COMPLETELY DELETED *** AVIVA INSURANCE COMPANY OF CANADA		
		REMARKS: YR1721683.				
YR1975619	2013/05/10	APL ANNEX REST COV		JADE-KENNEDY DEVELOPMENT CORPORATION		C
YR1975654	2013/05/10	NO DET/SURR LEASE		*** COMPLETELY DELETED *** JADE-KENNEDY DEVELOPMENT CORPORATION		
		REMARKS: YR1445332.				
YR2005313	2013/07/17	DISCH OF CHARGE		*** COMPLETELY DELETED *** D. MADY INVESTMENTS (2010) INC.		
		REMARKS: YR1446522.				
YR2014896	2013/08/06	DISCH OF CHARGE		*** COMPLETELY DELETED *** LAURENTIAN BANK OF CANADA		
		REMARKS: YR1445317.				
YR2062935	2013/11/20	CONDO LIEN/98		*** COMPLETELY DELETED *** YORK REGION CONDOMINIUM CORPORATION NO. 1228		
YR2099424	2014/02/26	CHARGE		*** COMPLETELY DELETED *** JADE-KENNEDY DEVELOPMENT CORPORATION	R W FORTRESS INC.	
YR2099500	2014/02/27	POSTPONEMENT		*** COMPLETELY DELETED ***		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
				AVIVA INSURANCE COMPANY OF CANADA	RW FORTRESS INC.	
YR2102006	2014/03/05	DIS CONDO LIEN		*** COMPLETELY DELETED *** YORK REGION CONDOMINIUM CORPORATION NO. 1228		
YR2112686	2014/04/03	CONDO BYLAW/98		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
YR2193675	2014/09/30	DISCH OF CHARGE		*** COMPLETELY DELETED *** R W FORTRESS INC.		
YR2195017	2014/10/01	CONDO LIEN/98	\$2,218	YORK REGION CONDOMINIUM CORPORATION NO. 1228		C
YR2195650	2014/10/01	CHARGE	\$3,600,000	JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	C
YR2195651	2014/10/01	CHARGE	\$2,400,000	JADE-KENNEDY DEVELOPMENT CORPORATION	LAURENTIAN BANK OF CANADA	C
YR2234798	2014/12/19	CHARGE	\$8,000,000	JADE-KENNEDY DEVELOPMENT CORPORATION	MARSHALLZEHR GROUP INC.	C
YR2238302	2014/12/31	CONSTRUCTION LIEN	\$249,916	GUEST TILE INC.	JADE-KENNEDY DEVELOPMENT CORPORATION YORK REGION STANDARD CONDOMINIUM PLAN NO. 1228	C
YR2238316	2014/12/31	CONSTRUCTION LIEN	\$10,826	DRAGLAM WASTE & RECYCLING INC.		C
YR2238990	2015/01/05	CONDO AMENDMENT		JADE-KENNEDY DEVELOPMENT CORPORATION		C
YR2250103	2015/01/30	NO CHNG ADDR CONDO		YORK REGION STANDARD CONDOMINIUM CORPORATION NO. 1228		C
YR2254502	2015/02/10	CERTIFICATE		DRAGLAM WASTE & RECYCLING INC.		C
YR2254665	2015/02/11	CERTIFICATE		GUEST TILE INC.		C
YR2473513	2016/05/18	TRANSFER OF CHARGE		LAURENTIAN BANK OF CANADA	MARSHALLZEHR GROUP INC.	C

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TAB E

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

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

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

**AND IN THE MATTER OF THE 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**

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

SEPTEMBER 25, 2017

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APPENDICES

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Appendix "B"	Net Sale Proceeds of Phase II Commercial Units
Appendix "C"	Net Sale Proceeds of Phase II Residential Property
Appendix "D"	Net Sale Proceeds of Vacant Lands
Appendix "E"	Am-Stat Mortgage Statement
Appendix "F"	Trustee R&D Statement
Appendix "G"	Chart re MZG Distribution
Appendix "H"	Chart re Am-Stat Distribution
Appendix "I"	Affidavit of Bryan Tannenbaum sworn September 13, 2017
Appendix "J"	Affidavit of Harvey Chaiton sworn September 25, 2017

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 ("**CBTL**") 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 "**SUSQ Property**").
2. The Appointment Order authorized the Trustee to, among other things, act as receiver and manager of the SUSQ Property, take possession and control of the SUSQ Property and any and all proceeds, receipts and disbursements arising out of or from the SUSQ Property, market any or all of the SUSQ Property, and sell, convey, transfer, lease or assign the SUSQ Property or any part or parts thereof with the approval of the Court.
3. All Court documents referred to herein, and other publicly available information relating to this proceeding, has been posted on the Trustee's website (the "**Trustee's Website**"), which can be found at:

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

PURPOSE OF SEVENTEENTH REPORT

4. The purpose of this Seventeenth Report of the Trustee (the "**Seventeenth Report**") is to:
- (a) provide the Court with an overview with respect to the realizations achieved by the Trustee from the SUSQ Property and other property of JKDC since the Trustee's appointment, and the claims of mortgagees, construction lien claimants, secured creditors and condominium corporations to such proceeds;
 - (b) provide an interim statement of the Trustee's receipts and disbursements for the period from February 11, 2015 to September 8, 2017;
 - (c) provide the Court with the Trustee's proposed allocation of administrative costs across all realization proceeds;
 - (d) report to the Court on the Trustee's activities since March 15, 2016, being the date of the Trustee's Sixth Report to the Court;
 - (e) request that the Court grant orders:
 - (i) approving the Trustee's proposal for the allocation of administrative costs across all realization proceeds;
 - (ii) authorizing the Trustee to distribute \$800,000 from the net sale proceeds from the Phase I Mall Units, Unit 60 and certain of the Phase I Kiosk Units (each as defined below) to MarshallZehr Group

- Inc. ("**MZG**" or "**MarshallZehr**"), as mortgagee, and authorizing the Trustee to make further distributions without Court order;
- (iii) authorizing the Trustee to distribute \$3,000,000 from the net sale proceeds of the Phase II Property, the Vacant Lands and from non-SUSQ Property (each as defined below) proceeds to Am-Stat Corporation ("**Am-Stat**"), as mortgagee and secured creditor, and authorizing the Trustee to make further distributions without Court order;
- (iv) authorizing the Trustee to distribute a holdback payment of \$135,000 from the net sale proceeds from the Phase II Commercial Units (as defined below) to a construction lien claimant, 2050491 Ontario Inc. o/a The Downsview Group ("**Downsview**"), and to release the remaining funds in the reserve to the Trustee;
- (v) authorizing the Trustee to release from reserve the amount of \$49,445 from the net sales proceeds for the Vacant Lands (as defined below), which was being held by the Trustee pursuant to Court order in connection with the now withdrawn construction lien claim of Screen Painting Ltd. ("**Screen**");
- (vi) authorizing the Trustee to distribute \$40,159.71 from the combined net sale proceeds of the Phase I Commercial Units (as defined below) to YRSCC 1228 (as defined below), on account of its registered condominium liens;

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- (vii) approving the Seventh Report of the Trustee dated June 6, 2016, the Ninth Report of the Trustee dated September 30, 2016, the Tenth Report of the Trustee dated October 11, 2016, the Eleventh Report of the Trustee dated October 27, 2016, the Supplement to the Eleventh Report dated November 9, 2016, the Twelfth Report of the Trustee dated December 15, 2016, the Thirteen Report of the Trustee dated March 13, 2017, the Fourteenth Report of the Trustee dated April 17, 2017, the Fifteenth Report of the Trustee dated June 28, 2017 the Sixteenth Report of the Trustee dated August 1, 2017, and this Seventeenth Report; and
- (viii) approving the fees and disbursements of the Trustee and its counsel Chaitons LLP ("**Chaitons**") as set out in herein and the fee affidavits attached as appendices hereto.

TERMS OF REFERENCE

5. In preparing this Seventeenth 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 Seventeenth 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.

REPORTS PREVIOUSLY FILED

6. As noted above, on February 11, 2015, the Court appointed CBTL as the Trustee. Since its appointment, the Trustee has filed with the Court the First Report dated April 23, 2015 (the "**First Report**"), the Second Report dated May 15, 2015 (the "**Second Report**"), the Supplement to the Second Report dated May 26, 2015 (the "**Supplement to the Second Report**"), the Third Report dated June 1, 2015 (the "**Third Report**"), the Fourth Report dated October 8, 2015 (the "**Fourth Report**"), the Fifth Report dated December 18, 2015 (the "**Fifth Report**"), the Sixth Report dated March 15, 2016 (the "**Sixth Report**"), the Supplement to the Sixth Report dated March 31, 2016 (the "**Supplement to the Sixth Report**"), the Second Supplement to the Sixth Report dated June 28, 2016 (the "**Second Supplement to the Sixth Report**"), the Seventh Report dated June 6, 2016 (the "**Seventh Report**"), the Eighth Report dated July 22, 2016 (the "**Eighth Report**"), the Ninth Report dated September 30, 2016 (the "**Ninth Report**"), the Tenth Report dated October 11, 2016 (the "**Tenth Report**"), the Eleventh Report dated October 27, 2016 (the "**Eleventh Report**"), the Supplement to the Eleventh Report dated November 9, 2016 (the "**Supplement**

to the Eleventh Report”), the Twelfth Report dated December 15, 2016 (the “Twelfth Report”), the Thirteenth Report dated March 13, 2017 (the “Thirteenth Report”), the Fourteenth Report dated April 17, 2017 (the “Fourteenth Report”), the Fifteenth Report dated June 28, 2017 (the “Fifteenth Report”), and the Sixteenth Report dated August 1, 2017 (the “Sixteenth Report”). Copies of these reports, with appendices, can be found on the Trustee’s Website.

7. The Court previously approved the First Report, the Second Report, the Supplement to the Second Report, the Third Report, the Fourth Report, the Fifth Report, the Sixth Report, the Supplement to the Sixth Report, the Second Supplement to the Sixth Report and the Eighth Report, and the conduct of the activities of the Trustee set out therein, in Court orders granted in this proceeding. Copies of these Court orders can be found on the Trustee’s Website.
8. As a result, at this time the Trustee is seeking approval of this Seventeenth Report, along with the Seventh Report, the Ninth Report, the Tenth Report, the Eleventh Report, the Supplement to the Eleventh Report, the Twelfth Report, the Thirteenth Report, the Fourteenth Report, the Fifteenth Report and the Sixteenth Report, and the conduct and activities of the Trustee as set out therein.

BACKGROUND

9. 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

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the purpose of being the registered owner of the SUSQ Property and developer of the South Unionville Square condominium project (the "**SUSQ Project**") to be constructed on certain portions of the SUSQ Property, which is located in Markham, Ontario.

10. JKDC sought the appointment of the Trustee as it was insolvent, contractors had registered construction lien claims against title to the SUSQ Property, and the appointment was necessary to complete the closing of certain pre-sold commercial/retail units, market and sell the unsold SUSQ Property, and distribute the sale proceeds pursuant to Court order(s).
11. The SUSQ Project was to be developed and constructed by JKDC in phases, as described below.

SUSQ PROPERTY AT TIME OF TRUSTEE'S APPOINTMENT

Phase I

12. 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.
13. 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 1228**").
14. As of the date of the Appointment Order, JKDC was still the registered owner of the following Phase I properties (collectively, the "**Phase I Property**"):

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- (a) one commercial/retail unit (legally known as unit 60, level 1) ("**Unit 60**");
- (b) eleven mall units (located on level 2) (collectively, the "**Phase I Mall Units**");
- (c) ten kiosks units (three of which are located on level 1 and the remaining eight on level 2) (collectively, the "**Phase I Kiosk Units**", and together with Unit 60 and the Phase I Mall Units, the "**Phase I Commercial Units**"); and
- (d) four (4) unsold parking units that are only accessible to the residents of the Phase I townhomes (collectively, the "**Phase I Parking Units**").

Phase II

15. Phase II of the SUSQ Project involved the two-stage development and construction of a 12-storey condominium-apartment tower, which contains residential, parking and locker units in the tower, and twenty-one (21) commercial/retail units located in, adjacent to and/or underneath the tower.
16. The first stage was the development and construction of the residential tower. Construction was substantially completed on June 10, 2014 and the residential condominium declaration was registered on September 11, 2014, which established York Region Standard Condominium Corporation No. 1265 ("**YRSCC 1265**").

17. As at the Trustee's appointment, JKDC was still the registered owner of the following Phase II residential properties (collectively, the "**Phase II Residential Property**"):
 - (a) six residential units (suites 117, 218, 827, 1216, 1521 and 1527) (collectively, the "**Phase II Residential Suites**");
 - (b) eight parking units (units 4, 26, 50, 80, 125, 178, 179 and 188 on level B) (collectively, the "**Phase II Parking Units**"); and
 - (c) six locker units (units 282, 327, 330, 333, 335 and 373 on level B) (collectively, the "**Phase II Locker Units**").
18. The second stage of the Phase II development and construction was the twenty-one commercial units (collectively, the "**Phase II Commercial Units**").
19. 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. As a result, the Phase II Commercial Units now form part of YRSCC 1228.
20. 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.
21. 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. 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.

The Vacant Lands

22. Additionally, there 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 and situated south of the SUSQ Project lands (the "**Vacant Lands**").
23. 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 SUSQ Project 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 lands 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.
24. 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**") on November 24, 2011 and was to complete the servicing requirements for the Vacant Lands. JKDC did not complete the servicing under the agreement with

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Primont and, notwithstanding extensions and amendments, a sale of the Vacant Lands was not completed by JKDC prior to the Trustee's appointment.

25. Following its appointment, the Trustee was able to negotiate a sale of the Vacant Lands to Primont, which 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.
26. 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. The sale to Primont closed on June 12, 2015.

REALIZATIONS FROM SUSQ PROPERTY

27. Since the Trustee's appointment, it has completed sale transactions for the SUSQ Property listed below, which were previously described in detail in the Trustee's reports to the Court and approved by Court orders granted in this proceeding. The net sale proceeds for each of the properties is included below. The amounts set out below take into account direct expenses, such as real estate commissions, HST, property taxes and certain common expense amounts paid by the Trustee. Details as to how the net sale proceeds amounts were calculated are set out in the spreadsheets attached hereto respectively as **Appendices "A" through "D"**.

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PROPERTY	NET SALE PROCEEDS
<u>PHASE I COMMERCIAL UNITS</u>	
Unit 60	\$731,871.47
Units 73, 74 and 75	\$83,034.38
Unit 138	\$64,012.31
Unit 146	\$67,376.87
Unit 174	\$43,040.80
Unit 181	\$42,988.07
Unit 209	\$47,923.22
Unit 250	\$47,923.25
Unit 348	\$46,940.62
Unit 361	\$59,655.44
Units 389 and 391	\$79,154.40
Unit 392	\$11,586.05
Unit 393	\$11,586.05
Unit 394	\$11,586.05
Total	\$1,348,679.23
<u>PHASE II COMMERCIAL UNITS</u>	
Units 86 & 87	\$346,424.32
Units 88 & 89	\$430,111.17
Units 90 & 91	\$477,714.75
Units 92 & 93	\$493,700.85
Unit 94	\$268,616.30
Units 95 & 96	\$309,379.84

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PROPERTY	NET SALE PROCEEDS
Units 97 & 98	\$264,721.02
Unit 355	\$222,441.98
Unit 356	\$208,557.83
Unit 357	\$274,514.75
Unit 358	\$382,601.40
Unit 359	\$532,338.48
Total	\$4,211,122.69
<u>PHASE II RESIDENTIAL</u>	
Suite 117; Parking Unit 26; Locker Unit 335	\$209,863.17
Suite 218; Parking Unit 80; Locker Unit 327	\$221,638.24
Suite 827; Parking Unit 188; Locker Unit 282	\$231,616.37
Suite 1216; Parking Unit 125; Locker Unit 373	\$258,109.37
Suite 1521; Parking Unit 4; Locker Unit 330	\$240,995.59
Suite 1527; Parking Unit 50; Locker Unit 333	\$234,050.76
Total	\$1,396,273.50
VACANT LANDS	
Vacant Lands	\$1,736,150.08

28. With respect to the calculation of the net sale proceeds, the amounts for the Phase II Residential Property listed above take into account amounts paid by the Trustee to YRSCC 1265 on the closing of each application sale transaction for common expense amounts that had accrued since the Trustee's appointment, along with pre-appointment common expense amounts that YRSCC 1265 was

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entitled to receive payment of as a result of registering liens against title to the property under the *Condominium Act, 2001*.

29. The Trustee continues to market for sale the following SUSQ Property:
- (a) five Phase I Commercial Units (three mall units and two kiosk units);
 - (b) four Phase I Parking Units;
 - (c) three Phase II Commercial Units; and
 - (d) two Phase II Parking Units.

REALIZATIONS FROM NON-SUSQ PROPERTY

Letters of Credit Funds

30. As previously reported, JKDC was required to arrange for the issuance of letters of credit ("LCs") in connection with its obligations to complete certain works pursuant to site plan, construction and other agreements.
31. JKDC arranged for its senior lender, Laurentian, to issue the required LCs, and JKDC posted cash collateral with Laurentian in support of the LCs. The cash collateral was advanced to JKDC by Laurentian under its letters of credit facility discussed below.
32. As at the date of the Trustee's appointment, there were eleven (11) irrevocable standby LCs outstanding with a total aggregate value of \$3,038,273.54.
33. The Trustee retained third party professional consultants and trades to complete the outstanding works in order to obtain the required certifications that would

result in a release of the LCs and the return to the Trustee of the cash collateral held by Laurentian.

34. As detailed in the R&D Statement discussed below, the Trustee has received \$1,758,457.84 in net LC proceeds from Laurentian in connection with released LCs. Prior to releasing funds to the Trustee, Laurentian retained an aggregate amount of \$231,742.62 on account of fees, which includes \$62,704.84 used by LBC to pay the invoices of its legal and other advisors.
35. As detailed in the Sixth Report, 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 negotiated arrangements with TD Bank to issue replacement LCs.
36. The Trustee sought this Court's approval of the arrangements it had entered into with TD Bank, which was granted pursuant to the Order of The Honourable Madam Justice Conway dated March 22, 2016.
37. The Trustee completed the transaction with LBC and TD Bank, and the LCs that had been issued by Laurentian were terminated and replaced by TD Bank issued LCs. Additionally, the cash collateral held by Laurentian, after payment of Laurentian's fees and costs, was transferred to TD Bank to secure the replacement letters of credit.
38. As of the date of this Seventeenth Report, the Trustee has recovered \$1,990,200.46 in gross proceeds that were used as cash collateral to secure

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LCs. There are currently seven (7) LCs outstanding with a face value of \$995,028.24.

39. The Trustee has completed all works required in favour of the beneficiaries of these LCs. The maintenance period for two of the remaining LCs expires November 24, 2017, and the Trustee expects to receive approximately \$81,367.20 in cash collateral at that time. The Trustee is waiting for confirmation of the maintenance periods for the five remaining LCs with an aggregate face value of \$913,661.04. The estimated proceeds from these remaining LCs will be reduced for any additional maintenance required by the City of Markham over the maintenance period, and increased for any interest earned on the cash collateral held by TD Bank.

Deposit Funds

40. As detailed below, Aviva Insurance Company of Canada ("**Aviva**") issued certain Tarrion bonds and deposit insurance facilities to JKDC in connection with the construction of the SUSQ Project and JKDC's obligations under the *Ontario New Home Warranties Act*. In connection with the deposit insurance facilities, JKDC granted Aviva a security interest in all deposits being held by its lawyers, Harris, Sheaffer LLP, as escrow agent (the "**Escrow Agent**").
41. The Trustee has been informed by the Escrow Agent that it holds in escrow an aggregate amount of \$873,734.62 as of September 20, 2017, which represents deposits received by JKDC from purchasers (plus accrued interest) and still held in escrow as security for JKDC's outstanding obligations to Aviva.

42. As noted below, JKDC's obligations to Aviva have been reduced to \$120,000 and as a result, the Trustee has requested that Aviva direct the Escrow Agent to deliver \$724,881.05 to the Trustee, which is the amount being held in escrow in excess of the \$120,000 plus outstanding amounts for bond premiums and legal costs of the Escrow Agent.

Management Office

43. As noted above, on April 17, 2013, JKDC registered a declaration with respect to the Phase I commercial/retail condominium units, along with the residential townhouse units (the "**Phase I Declaration**").
44. As a result of the registration, YRSCC 1228 was established and JKDC became the registered owner of all of the Phase I condominium units.
45. Section 4.6 of the Phase I Declaration provides that Unit 50 on level 2 (the "**Management Unit**") was to be used as the office for the property manager appointed by YRSCC 1228, and YRSCC 1228 was to purchase the Management Unit from JKDC for a purchase price of \$200,000 exclusive of HST. YRSCC 1228 was to give a VTB mortgage to JKDC for the full purchase price.
46. A Transfer and a Charge were registered on title to the Management Unit on May 14, 2014 (the "**Management Unit Charge**"). In accordance with the Phase I Declaration, the Management Unit Charge has an eleven (11) year term, which bore no interest for the first year of the term and thereafter, for the balance of the term, bears interest at a fixed rate of interest being four (4.0%) percent over the Government of Canada Bond Yield in effect on April 17, 2013, calculated semi-

annually, not in advance. Blended monthly installments on account of principal and interest were to be computed based on an amortization period of ten (10) years and payable commencing on the thirteenth month following April 17, 2013.

47. To date, the Trustee has received all required payments from YRSCC 1228. Given that the term of the Management Unit Charge far exceeds the expected duration of this proceeding, the Trustee has suggested to YRSCC 1228 that it consider taking steps to re-finance the mortgage. YRSCC 1228 representatives have advised the Trustee that they are looking into re-financing alternatives.

CREDITORS

Mortgagees / Secured Creditors

48. As has been previously reported to the Court, the following parties registered mortgages against portions of the Property:
- (a) Laurentian Bank of Canada ("**LBC**" or "**Laurentian**");
 - (b) Am-Stat;
 - (c) MZG; and
 - (d) Aviva.
49. Additionally, as at the time of the commencement of this proceeding, Laurentian, Am-Stat and Aviva had registered financing statements against the personal property of JKDC in accordance with the *Personal Property Security Act*.

Laurentian

50. The development and construction of SUSQ Project was financed by credit facilities made available to JKDC by Laurentian. Laurentian was granted, among other things:
- (a) a charge/mortgage in the principal amount of \$45,000,000;
 - (b) a charge/mortgage in the principal amount of \$3,600,000;
 - (c) a charge/mortgage in the principal amount of \$2,400,000; and
 - (d) a general security agreement and a deposit trust agreement.
51. The \$3.6 million collateral charge was granted by JKDC over certain of the Phase I Property (the "**\$3.6 Million Charge**") with respect to the indebtedness of 144 Park Ltd. ("**144 Park**"), a company related to JKDC. This charge was subsequently assigned by Laurentian to MZG.
52. The \$2.4 million charge was granted by JKDC over certain of the SUSQ Property; however, Laurentian has confirmed there is no outstanding indebtedness or obligations that are secured by this charge.

Am-Stat

53. As has been previously reported, the Trustee understands that Am-Stat advanced \$10.0 million to JKDC and a related company, Milliken Development Corporation, in September 2013.

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54. As security for its indebtedness to Am-Stat, JKDC granted a \$10.0 million charge, which was registered against certain of the Property in August 2013 (the "**Am-Stat Charge**"). Additionally, JKDC granted a general security agreement in favour of Am-Stat.
55. As previously reported, the Trustee obtained an opinion from Chaitons that confirmed that, subject to standard qualifications and assumptions, the Am-Stat Charge was a valid and enforcement charge against the SUSQ Property it was registered against and the proceeds thereof.
56. As noted below, Am-Stat received a distribution of \$1.2 million from the Trustee from the net sale proceeds of the Vacant Lands on July 7, 2017 in accordance with the Order of Justice Conway dated July 4, 2017.
57. Am-Stat has informed the Trustee that, as of September 20, 2017, it was owed \$5,775,017.69 by JKDC, as set out in the statement attached hereto and marked as **Appendix "E"**.
58. In addition to the Am-Stat Charge, the Trustee has obtained an opinion from Chaitons that, subject to usual qualifications and assumptions, Am-Stat has valid and enforceable security against the personal property of JKDC.

MarshallZehr

59. MarshallZehr provided construction financing to 144 Park. As collateral security for payment by 144 Park of its indebtedness to MarshallZehr, JKDC granted a charge/mortgage in the principal amount of \$8,000,000, which charge/mortgage

was registered on title to certain of the Phase I Commercial Units (the "**MZG Charge**").

60. The Trustee had obtained an opinion from Chaitons that confirmed that, subject to standard qualifications and assumptions, the MZG Charge is a valid and enforcement charge against the SUSQ Property it was registered against and the proceeds thereof.
61. MarshallZehr has informed the Trustee that, as of September 20, 2017, it was owed approximately \$5.72 million by 144 Park, which is secured by the MZG Charge.

Aviva

62. In connection with the proposed development of the SUSQ Project, JKDC obtained residential and commercial deposit insurance facilities, and Tarion Warranty Corporation ("**Tarion**") Bonds totalling \$5.3 million from Aviva. The facilities and the Tarion Bonds were obtained to satisfy and secure JKDC's deposit and warranty obligations under the *Ontario New Home Warranties Plan Act*. JKDC also entered into an indemnity agreement in favour of Aviva and agreed to indemnify Aviva from any losses or claims Aviva may suffer in connection with the issuance of the Bonds.
63. JKDC granted security to Aviva with respect to its indemnification obligations, including a \$30.0 million charge and a \$16.5 million charge registered over certain of the Property, and a security interest over all deposits held by the Escrow Agent.

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64. Since its appointment, the Trustee has spent considerable time and effort to arrange for the necessary steps to be completed so that the outstanding Tarion bonds could be reduced.
65. As a result of its efforts, the Trustee was recently informed by Tarion that the only remaining Tarion Bonds was reduced in favour from \$1.5 million to \$120,000, being \$20,000 per each Phase II Residential Suite sold by the Trustee during this proceeding.
66. The following chart sets out the mortgages registered in favour of the above-noted mortgagees and the portions of the Property that the mortgages were registered against:

Mortgagee	Mortgage	Mortgaged Property
Aviva	\$30.0 million charge	Phase I Commercial Units; Phase I Parking Units; Phase II Commercial Units
	\$16.5 million charge	Phase II Commercial Units; Phase II Residential Suites; Phase II Parking Units; Phase II Locker Units
LBC	\$45.0 million charge	Phase II Commercial Units; Phase II Residential Units; Phase II Parking Units; Phase II Locker Units; Vacant Lands
	\$3.6 million charge	Phase I Commercial Units (except for three Phase I Kiosk Units)
	\$2.4 million charge	Phase I Commercial Units (except for three Phase I Kiosk Units)
MarshallZehr	\$8.0 million charge	Phase I Commercial Units (except for three Phase I Kiosk Units)
Am-Stat	\$10.0 million charge	Phase II Commercial Units, Phase II Residential Suites; Vacant Lands

Construction Lien Claims

67. Construction liens totalling approximately \$3.7 million were registered against the Property by eighteen (18) parties (collectively, the "**Construction Lien Claimants**").
68. Pursuant to the Order (re Lien Claims Process) of Justice Pattillo dated May 1, 2015, the Trustee was ordered to implement and administer a lien claims process with respect to condominium liens and with respect to construction liens (the "**Construction Lien Claims Process**").
69. As at the date of the Trustee's appointment, no funds were being held by JKDC with respect to the ten per cent (10%) basic holdback established under section 22 of the *CLA* (the "**Basic Holdback**").
70. As previously reported to the Court, and pursuant to Court orders, granted in this proceeding, the Trustee has made distributions in the aggregate sum of \$1,354,672.72 to all but two of the Construction Lien Claimants on account of the deficiency in the Basic Holdback.
71. The remaining two Construction Lien Claimants are Sereen and Downsview.
72. Sereen's construction lien with respect to painting and wallpaper services and materials supplied to JKDC. Its construction lien was only registered against two parcels of the Vacant Lands.

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73. Sereen submitted a claim to the Trustee in the Construction Lien Claims Process. Sereen's claim was disallowed by the Trustee for a number of reasons. Sereen notified the Trustee that it wished to appeal the Trustee's disallowance.
74. Pursuant to Court orders granted in this proceeding, the Trustee has been holding a reserve of \$49,445 with respect to Sereen's holdback claim from the net sale proceeds of the Vacant Lands.
75. On August 23, 2017, Sereen confirmed in writing, through its counsel, that it no longer intended to appeal the Trustee's disallowance of its claim. As a result, there is no longer a need for the Trustee to maintain a reserve, and requests that the Court authorize it to release these funds, plus any accrued interest, from reserve.
76. Downsview supplied certain landscaping and other services and materials to JKDC with respect to the SUSQ Project. The Trustee and Downsview have exchanged numerous correspondences with respect to matters related to Downsview claim. The Trustee has been holding net sale proceeds from the Phase II Commercial Units equal to \$199,756.53 in a reserve pursuant to a Court order issued in this proceeding in connection with Downsview's holdback claim.
77. The Trustee and Downsview have agreed, subject to Court approval, that the Trustee will distribute \$135,000 to Downsview from the funds currently held in reserve in connection with Downsview's construction lien holdback claim. Accordingly, the Trustee requests that the Court authorize it to distribute \$135,000 to Downsview from the funds currently being held in reserve, and

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authorize the release to the Trustee of the remaining funds that were being held in reserve of \$64,756.53 plus any accrued interest.

78. Additionally, one Construction Lien Claimant, Guest Tile Inc. ("**Guest Tile**"), registered its construction lien claim against all of the SUSQ Property, including certain property that is not subject to any mortgage with amounts outstanding. As a result, Guest Tile was entitled to payment of an amount equal to the full principal amount of its claim, being \$249,916.12. The Trustee has paid this amount to Guest Tile from the net sale proceeds of the SUSQ Property pursuant to Court orders granted in this proceeding.
79. Guest Tile has taken the position that it is entitled to payment of its costs, and an interest amount, in connection with its construction lien claim, and that it should be paid these amounts from the property subject to its lien that is not encumbered by the claims of other parties.
80. Guest Tile has delivered a bill of costs setting out a partial indemnity amount of approximately \$27,000. In the Trustee's view, this amount is not proportionate to the amount of Guest Tile's claim and the steps taken by Guest Tile in this proceeding, and is of the view that a more appropriate amount of costs is \$23,500. The Trustee understands that, to date, Guest Tile has not agreed to accept this amount in connection with its costs claim. In the event an amount is agreed to by the parties, the Trustee will distribute funds to Guest Tile from the net sale proceeds of the three Phase I Kiosks located on level 1 of the mall, as

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no other party has an amount outstanding with respect to encumbrances registered against tile to those units other than Guest Tile.

81. With respect to its interest claim, the Trustee has been advised by Chaitons that the CLA provides that a construction lien claim cannot include any amount on account of interest. The Trustee understands that Guest Tile's counsel has conceded this point, but is of the view that, but for the commencement of this proceeding, it could have taken steps to obtain judgment against JKDC and registered a writ against the SUSQ Property, which would have entitled it to receive an amount on account of interest.
82. The Trustee, through its counsel Chaitons, has informed Guest Tile that, as there has been a stay of proceeding in effect since February 2015, Guest Tile was never in a position to obtain judgment against JKDC, and that any interest claim it may have against JKDC is an unsecured claim. The Trustee has informed Guest Tile that it opposes payment of any amount to it on account of interest, even if the claim is paid from SUSQ Property not otherwise encumbered, as such payment would constitute a unjust preference in relation to the other unsecured creditors of JKDC that will not be receiving any amount on account of their unsecured claims. If necessary, the Trustee is prepared to bring a motion for advice and direction so that this issue may be fully argued before the Court.

Priority Resolution Process

83. As has been previously reported to the Court, as a result of disputes between certain mortgagees and Construction Lien Claimants, it was necessary to

establish a procedure to adjudicate the priority dispute with respect to the entitlement of the Construction Lien Claimants to amounts in excess of the Basic Holdback. Such a procedure was established pursuant to the Order of Justice Wilton-Siegel dated June 30, 2016.

84. A hearing was held before Justice Wilton-Siegel on October 7 and 11, 2016. Pursuant to the Order of Justice Wilton-Siegel dated December 7, 2016, the Court held that:
- (a) the professional fees associated with the LBC \$45.0 million charge has priority over the claims of the Construction Lien Claimants with respect to the net sale proceeds of the SUSQ Property subject to such charge;
 - (b) the claim of Guest Tile with respect to the Phase I Commercial Units for amounts in excess of the Basic Holdback has priority over the LBC \$3.6 Million Charge that had been assigned by LBC to MZG; and
 - (c) the Am-Stat \$10.0 million Charge has priority over the claims of Construction Lien Claimants for amounts in excess of the Basic Holdback with respect to the net sale proceeds of the SUSQ Property subject to such charge.
85. The Construction Lien Claimants sought and obtained leave to appeal to the Divisional Court with respect to the Court's determination with respect to the priorities dispute.

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86. The appeal was heard by the Divisional Court on May 29, 2017. The Divisional Court dismissed the appeal, as set out in its Decision dated June 2, 2017.
87. The Trustee understands that the period for the Construction Lien Claimants to commence a motion for leave to appeal to the Court of Appeal has expired and no such motion has been brought by the parties.
88. A number of parties have submitted costs submissions to Justice Wilton-Siegel. None of the parties have sought costs against the Trustee with respect to the motions heard by Justice Wilton-Siegel.

TRUSTEE'S ACTIVITIES SINCE THE SIXTH REPORT

89. The Trustee has undertaken the following activities in accordance with the Appointment Order since the date of the Sixth Report:
- (a) attending to all matters to in connection with determining the priorities of creditors;
 - (b) attending to all matters in connection with the sale and closing of Units:
 - (i) Phase I Commercial – Units 392, 393, 394, 209, 250, 146, 389, 391, 361, 348, 138, 174 and 181
 - (ii) Phase II Commercial – Units 92 and 93
 - (iii) Phase II Residential – Suites 117, 218, 827 and 1527

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- (c) attending numerous calls with Chaitons regarding the Trustee's motions with respect to matters detailed in the Trustee's Seventh through Seventeenth Reports;
- (d) attending to numerous discussions, emails and meetings with representatives of Tarion and YRSCC 1265 regarding completion of the common element Performance Audit deficiencies required under Tarion's Builder's Bulletin 49 related to the Phase II condominium tower and parking units in order to eliminate the remaining \$1.5 million Phase II bond issued by Aviva in favour of Tarion;
- (e) attending numerous site meetings with third party consultants and contractors to review various issues, including items related to warranty coverage by Tarion and the status of work in progress;
- (f) 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;
- (g) entering into negotiations with YRSCC 1265 representatives resulting in a settlement agreement, signed release and Aviva's agreement to release its security;

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- (h) respond to homeowners' requests to review items they claimed to be covered under warranty and coordinate repairs as required resulting in no outstanding warranty claims at this time;
- (i) ongoing meetings with representatives of 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") in order to obtain reductions/releases of the remaining LCs;
- (j) doing all things necessary to coordinate repairs and complete outstanding work in order to comply with obligation to Markham, as set out in the various agreements and supported by the LCs;
- (k) working with its engineering consultants to finalize all documentation required by Markham including meetings, correspondence and preparing applications for LC reductions;
- (l) 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;
- (m) doing all things necessary to replace Laurentian as the LC provider with TD Bank, including obtaining the required approval form;

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- (n) doing all thing necessary to retain a new realtor including revising the listing prices, approving a marketing programme and negotiating/signing various agreements;
- (o) engage in ongoing discussions with Century 21 representatives to review numerous offers received and obtaining market updates;
- (p) advertising the four townhome parking spaces and two residential condominium tower parking spaces for sale to the existing owners and to YRSCC 1228 and YRSCC 1265;
- (q) collect a receivable of \$34,982.13 pursuant to a demand letter issued by the Trustee to the purchaser of a Phase I commercial unit;
- (r) collect amounts owed to the Trustee by YRSCC 1228 under the Management Unit Charge;
- (s) receive \$25,729 held by the Escrow Agent pursuant to a release agreement entered into by the Trustee with the former purchaser (Jiang) of Unit 60;
- (t) attending to calls with mortgagees and providing information;
- (u) responding to enquiries from unsecured creditors;
- (v) reviewing, negotiating and approving documentation from prospective purchasers;

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- (w) 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;
- (x) attending to voluminous discussions and emails with property managers for Phase I and II commercial and residential units regarding repairs, maintenance and other issues;
- (y) posting the Vesting Orders and other required documentation to the Trustee's website; and
- (z) doing all other things necessary with respect to the Trustee's mandate under the Appointment Order and the CLA.¹

STATEMENT OF RECEIPTS AND DISBURSEMENTS

90. Attached hereto as **Appendix "F"** is the Trustee's Statement of Receipts and Disbursements for the period from February 11, 2015 to September 8, 2017 (the "**R&D Statement**").
91. As indicated in the R&D Statement, the Trustee has an Excess of Receipts over Disbursements of \$4,926,702.46 as at September 8, 2017. The Trustee proposes to make distributions to entitled creditors after maintaining reserves for future costs, as discussed below.

¹ Significant details as to the activities of the Trustee can be found in the narratives contained in the Trustee's invoices, which are included as an exhibit to the Affidavit of Bryan Tannenbaum attached hereto as an appendix.

92. The proposed distributions take into account an allocation of the administrative costs of the Trustee in connection with this proceeding across the SUSQ Property. The amounts allocated to the SUSQ Property is detailed in charts appended hereto and discussed below with respect to the proposed distributions to MZG and Am-Stat.

DISTRIBUTION OF PROCEEDS

MZG

93. As noted above, MZG is the assignee of Laurentian's \$3.6 Million Charge and is the mortgagee under the MZG Charge, both of which are registered against certain of the Phase I Commercial Units.
94. As set out in the Estimated Property Realizations Charts, the Trustee is holding net sale proceeds totalling \$1,348,679.43 from the sale of Phase I Commercial Units and \$1,265,644.60 of this was secured by the MZG Charge.
95. Attached hereto as **Appendix "G"** hereto is a chart that sets out the calculation for an interim distribution to MarshallZehr in the amount of \$800,000. This amount is based on the Net Sale Proceeds in the Property Realization Chart less costs incurred for units available for sale, an allocation of administrative costs and court ordered payments to prior ranking creditors;

Am-Stat

96. As noted above, Am-Stat has provided a mortgage statement that indicates that it is owed in excess of \$5.7 million by JKDC as at September 20, 2017.

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97. As set out in the Estimated Property Realizations Charts, the Trustee is holding net sale proceeds totalling \$4,211,122.69 from the sale of Phase II Commercial Units, \$1,396,273.50 from the sale of Phase II Residential Units and \$1,736,150.08 from the sale of the Phase III vacant land. In addition, there is \$2,891,431.11 in Non-Property Proceeds.
98. Attached hereto as **Appendix "H"** is a chart that sets out the calculation for an interim distribution to Am-Stat in the amount of \$3,000,000. This amount is based on the Net Sale Proceeds in the Property Realization Chart less costs incurred for units available for sale, an allocation of administrative costs and court ordered payments to prior ranking creditors.

YRSCC 1228

99. As noted above, the Trustee has completed the sale of a number of the Phase I Property during the course of its appointment. Each of the Phase I units were subject to condominium liens registered on title by YRSCC 1228 in connection with unpaid common expenses owing with respect to the property at the time of the Trustee's appointment, and at the time of the completion of the sale transactions for each of the units.
100. As part of the closing of the sale transactions, the Trustee paid out of the gross sale proceeds common expenses arrears that had arisen since its appointment. However, to date, the Trustee has not distributed any amounts to YRSCC 1228 in connection with amounts secured by its condominium liens as YRSCC 1228

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had failed to serve notices of its liens to Aviva as mortgagee in contravention of the provisions of the *Condominium Act, 2001*.

101. However, as noted above, the obligations owed by JKDC to Aviva have been reduced to \$120,000 and there are sufficient deposits being held by the Escrow Agent to fully secure this amount. As a result, Aviva will not be required to rely on its mortgages registered against the SUSQ Property to satisfy the outstanding obligations to it.
102. Given the fact that Aviva will not be looking to the Phase I Property proceeds under its mortgages, it is no longer necessary for the Trustee to refrain from distributing the aggregate amount of \$40,159.71 to YRSCC 1228 from the net sale proceeds of the Phase I Property with respect to its registered condominium liens. As a result, the Trustee is requesting that the Court authorize to proceed with this proposed distribution.

LBC

103. As noted above, one of the issues before Justice Wilton-Siegel in connection with the priority motions was whether Laurentian was entitled to payment of its legal fees and disbursements from the net sale proceeds subject to its \$45 million charge. Justice Wilton-Siegel held that LBC was entitled to payment of its fees and disbursements.
104. The Trustee understands that LBC is seeking payment of approximately \$100,000 from the net sale proceeds of SUSQ Property subject to the \$45 million charge. This amount is in addition to the approximately \$62,000 of legal fees

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and disbursements that Laurentian satisfied from funds it was holding in connection with the LCs.

105. The Trustee has been informed that Am-Stat does not agree with LBC's entitlement to the net sale proceeds of SUSQ Property subject to the \$45 million charge. As a result, the Trustee is not in a position to seek Court approval of a distribution to LBC, and will hold a specific reserve of \$96,595.30 with respect to this matter, as that was the last amount provided by counsel to LBC.

FEES AND DISBURSEMENTS OF THE TRUSTEE AND ITS COUNSEL

106. 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.
107. The total fees for the Trustee for the period from February 1, 2016 to July 31, 2017 were \$504,701 plus disbursements of \$2,354.20 plus HST of \$65,917.21 for a total of \$572,972.31. The time spent by the Trustee is more particularly described in the Affidavit of Bryan A. Tannenbaum sworn September 13, 2017, 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.
108. The total fees of Chaitons, as insolvency counsel to Trustee, for the period from January 1, 2015 to August 31, 2017 were \$362,104.50 plus disbursements of

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\$20,127.29 plus HST of \$48,522.39 for a total of \$430,754.18. The time spent is more particularly described in the Affidavit of Harvey Chaiton sworn September 25, 2017, which is attached hereto and marked as Appendix "J". This affidavit contains a summary of the invoices that set out the services provided during this time period.

TRUSTEE'S REQUEST TO THE COURT

109. The Trustee requests that the Court grant orders described in paragraph 4 above.

All of which is respectfully submitted to this Court as of the 25th day of September, 2017.

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

TAB F



**LAURENTIAN BANK
OF CANADA**

8500 Leslie Street, Suite 100
Thornhill, Ontario L3T 7M8

August 04, 2011

Mady Development Corporation
100-8791 Woodbine Avenue
Markham, Ontario
L3R 0P4

Attention: **Greg Puklicz**
Senior Vice President

Dear Sirs:

RE: Financing for the Construction of Phase II of Lands and Buildings described below and located at 8300 Kennedy Road, Markham, Ontario and which is known as The Residences at South Unionville Square (the "Project").

LAURENTIAN BANK OF CANADA ("Laurentian Bank" or "LBC"), THE EQUITABLE TRUST COMPANY and PACIFIC & WESTERN BANK OF CANADA, severally, (all such lenders hereinafter collectively called the "Lender") are pleased to offer to the undersigned Borrower a commitment (the "Commitment") to finance a mortgage loan (the "Loan") upon the security hereinafter provided and subject to the following terms and conditions:

1. **BORROWER:** Jade-Kennedy Development Corporation (the "Borrower")
2. **BENEFICIAL OWNER:** Mady-Jade Corporation and Jolie-Jade Corporation carrying on business as the Jade-Kennedy Co-Tenancy (collectively, the "Beneficial Owner").
3. **GUARANTORS:**

D. Mady Investments Inc., D. Mady Holdings Inc., Mega GC Holdings Company Limited, Jade-Kennedy (Residential) Development Corporation, and Charles Mady (collectively, the "Guarantor")

Refer to the Loan Security section for the particulars applicable to all guarantees.
4. **CREDIT PARTIES:**

In this Commitment each of the persons, firms, corporations and entities individually comprising each of the Borrower, the Guarantor and, if applicable, the Beneficial Owner, is hereinafter called a "Credit Party" and all such persons, firms, corporations and entities together are hereinafter called the "Credit Parties".
5. **PROJECT / SECURED PROPERTY:**

Approximately 56,014 sq. ft. of land in three parcels to be developed with 253 residential condominium units, 6 townhouse units and 2 single detached dwellings, plus 13,938 square feet of retail space. The net saleable area of

the residential condominium units shall be approximately 156,185 square feet. The net saleable area of the commercial space shall be approximately 13,938 square feet. Parking will be provided for up to 312 vehicles.

The legal description of the above-referenced property (the "Property") is to be confirmed by the Lender's solicitors.

6. PURPOSE OF LOAN:

To provide interim construction financing for the construction and development of the Project as detailed above in accordance with the plans and specifications approved by the Lender.

7. SYNDICATION OF FACILITIES:

LBC shall have the right, in its sole discretion, to syndicate all or a portion of the Loan (and the obligations of the Lender stated herein) with other lenders and on terms satisfactory to the lenders. This Commitment and the obligations of the Lender herein are expressly subject to the successful syndication by LBC of not less than 53% of the total Loan facilities on a pari passu basis with The Equitable Trust Company and Pacific & Western Bank of Canada, or third party lenders to be determined in the discretion of LBC. The initial advance of the Loan is subject to the execution of a satisfactory form of Co-Lender's Agreement and/or Participation and Servicing Agreement to be entered into by LBC and all syndicated and/or participating lenders. These conditions are for the benefit of LBC and may only be waived by LBC. Subject as hereafter provided, if no letter waiving the above conditions is provided then this Commitment shall be null and void and of no further force and effect. The balance of the Commitment Fee, which is deemed earned by the Commitment, will be returned to the Borrower after all due diligence costs and expenses (as well as LBC's review time) and all legal fees and expenses have been paid in full.

In addition to the Commitment Fee and any other fees applicable to this Commitment, the Borrower agrees to pay LBC an origination fee (the "Origination Fee") in the amount of (\$95,000) payable from the initial construction advance of the Loan. The Origination Fee is intended to compensate the LBC for successfully syndicating the Loan facilities.

8. FACILITIES:

The facilities to be made available to the Borrower, when not in default and pursuant to the terms and conditions of this Commitment, to be secured by the Security Documents, are the following facilities (hereinafter collectively, the "Facilities")

Facility 1: \$38,193,711 (maximum)

Demand Interim Non-Revolving Construction Loan Facility

A demand loan in the amount of the lesser of the following:

- a. \$38,193,711;
- b. 75% of costs; and
- c. 60% of completed value (net of HST).

Facility 2: \$1,000,000

Letters of Credit Facility.

Letters of Credit will be available for items in the approved budget up to the amount of Facility 2 when not in default and will be made available only for the following purpose(s): (a) to municipal bodies for development purposes; and, (b) where applicable, to Tarion Warranty Corporation in respect of purchaser deposits for the Project. Letters of Credit may only be issued for terms of one (1) year and are renewable prior to the maturity thereof provided the Borrower is not in default, the term of the Commitment has not then expired and demand has not been made on the Borrower.

Letters of Credit, other than those for Tarion Warranty Corporation, and for City and Region, are to be duplicate in nature.

Letters of Credit for Tarion Warranty Corporation may be released and returned for cancellation on confirmation of replacement security with a substitute deposit insurer for purchaser deposits, acceptable to the Lender, and concurrently therewith execution and delivery by the substitute deposit lender of a form of priorities agreement in favour of the Lender, in form and content acceptable to the Lender.

Any draws under letters of credit, other than those for Tarion Warranty Corporation, will result in offsetting reductions in amounts available under Facility 1. On completion and repayment of the Loan, any remaining outstanding Letters of Credit must be secured with equivalent cash deposits.

Facility 3: \$250,000

Revolving Operating Line of Credit.

An operating Line of Credit (as a sub-credit of Facility 1) to assist the Borrower in bridging approved Project costs between advances made pursuant to Facility 1. All draws under this facility must be retired in full at the time of each advance of Facility 1 and the total of all funds advanced under the Line of Credit and the Construction Loan Facility cannot exceed the approved amount of Facility 1.

For greater clarity, the maximum authorized amount for the total of all of the above Facilities is \$39,193,711, being the aggregate of Facilities 1 and 2 above. Notwithstanding the total of the above Facilities the Borrower agrees that the Lender's charge of the real property comprising the Property shall be registered in the higher amount of \$45,000,000.

9. TERM:

30 months from 1st day of the calendar month next following the date of the initial advance of the Loan (plus the part of the month in which the Loan is advanced), subject to the right of the Lender to demand repayment at any time.

10. INTEREST RATE:

Facility 1: Demand Interim Construction Loan:

A variable annual rate which is 200 basis points (2.00%) above the annual LBC Prime of Interest announced, quoted or charged from time to time at by LBC at the location designated by the Lender (the "LBC Prime Rate"), as the Lender's reference rate then in effect for determining interest rates on Canadian dollar commercial loans made by the Lender in Canada, adjusted daily and compounded monthly. A minimum interest rate shall be set at the time of registration of security based on the then current LBC Prime plus 2.00%. The applicable interest rate shall vary automatically without notice to the Borrower upon each change in the LBC Prime Rate.

Interest accrues from the date of disbursement of funds to our solicitors.

Facility 2: Letters of Credit

Letter(s) of Credit are to be for items included as part of the approved budget as provided above.

Letters of Credit will be subject to an annual fee of 1.75% of the required amount. The fee is deemed earned upon the issuance of each Letter of Credit, and subsequently, upon each successive anniversary of the issuance thereof. Letters of Credit may only be issued after the

security documents are registered on title and, if applicable, acceptable security is posted with Laurentian Bank.

The Letter of Credit rates are subject to change based on the pricing schedule in effect at Laurentian Bank.

Facility 3: Operating Line of Credit

A variable annual rate which is 200 basis points (2.00%) above the LBC Prime (as detailed above), adjusted daily and compounded monthly. A minimum interest rate shall be set at the time of registration of security based on the then current LBC Prime plus 2.00%. The applicable interest rate shall vary automatically without notice to the Borrower upon each change in the LBC Prime Rate.

Interest accrues from the date of disbursement of funds to our solicitors.

11. **REPAYMENT:**

Interest only monthly, payable in arrears, both before and after demand, default and/or judgment. All payments received by the Lender will be applied first to any interest in arrears, then to the interest, and finally to the principal. Interest on overdue interest shall be calculated at the same rate as interest on advances of the Loan, but shall be compounded monthly any payable on demand both before and after demand, default and/or judgment.

The Loan is open for prepayment at any time or times by the Borrower.

The Loan will be repaid by the Borrower in full on the earlier of the date of written demand and March 1, 2014.

12. **PARTIAL DISCHARGES:**

Provided there has been no default, partial discharges will be provided on a per unit basis upon receipt of 100% of net sale proceeds excluding reasonable closing costs i.e. legal fees, commissions, mortgage discharge fee, interest due on purchaser deposits and HST on the sale of the units.

Closing proceeds will be applied firstly to repay Facility 3, secondly to repay Facility 1 and thirdly to fully secure by cash any Letters of Credit outstanding under Facility 2. A fee of \$150 for each discharge document will be payable to the Lender.

13. **SOURCES AND USES OF FUNDS:**

USE OF FUNDS		SOURCE OF FUNDS		
Hard Costs (incl. development costs)	\$35,890,996	First Mortgage Loan	73.22 %	\$38,193,711
Soft Costs	\$15,216,248	Purchaser Deposits	23.03 %	\$12,012,324
Contingencies	\$1,054,492	Deferred Costs	3.75 %	\$1,955,701
Total	\$52,161,736	Total		\$52,161,736

Notes: Deposits utilized in the Project (to be confirmed by the Cost Consultant) in excess of \$12,013,000 will result in a corresponding reduction in the authorized Loan amount.

All figures to be confirmed by the Cost Consultant. To the extent that the approved budget submitted is less than the budget as outlined above, both the Loan and the other amounts will be reduced accordingly.

Approval for the Loan is based on projected budget costs for the Project as presented to and approved by the Lender. Any material changes to these projected costs may, at the Lender's option, render this Commitment null and void.

Until such time as the title to the lands for the 6 townhouse units and 2 single detached dwellings has been confirmed to the satisfaction of the Lender's solicitor and secured by a Charge in favour of the Lender, no funds will be advanced for construction of the aforementioned 6 townhouses and 2 single detached dwellings.

14. NON-REFUNDABLE COMMITMENT FEE:

The Borrower acknowledges and agrees that, forthwith upon acceptance of this Commitment, the Borrower shall pay to the Lender and the Lender shall be deemed to have earned its non-refundable Commitment Fee (the "Commitment Fee") in the sum of \$286,000 (0.75% of Loan Amount) representing compensation to the Lender for its efforts and expenditures by its officers, agents and employees in the review and study of documentation pertaining to this transaction, review of appraisals, credit reports, financial statements and other data, and physical inspections of the subject matter of the Security Documents. The Commitment Fee is in addition to the Borrower's obligation to pay all legal costs of this transaction as may be charged by the Lender's solicitors. The Borrower further acknowledges and agrees that the Commitment Fee shall represent compensation to the Lender only in respect of the original Term of the Loan as stipulated herein, and any extension or renewal of the Loan for any period beyond such original Term shall be subject to such additional fees as may be agreed between the Borrower and the Lender.

Receipt of \$75,000 towards the Commitment Fee is hereby acknowledged. The further sum of \$50,000 shall be payable upon acceptance of this Commitment and the remainder of the Commitment Fee of \$161,000 shall be payable by way of deduction from the first advance of the Loan.

15. LOAN SECURITY:

As security for the Loan, the following documents, instruments, agreements and other assurances (collectively, the "Security Documents"), to be registered or otherwise granted in Second priority position, shall be delivered to the Lender prior to the first advance of funds, all of which shall be prepared on the Lender's standard forms, containing its standard representations, warranties, covenants and conditions (which may supplement the terms and conditions of this Commitment), and otherwise in form and substance satisfactory to the Lender and its solicitors:

1. Freehold Charge of the real property comprising the Property, in the amount of \$45,000,000. This Charge will rank *pari passu* with the existing charge of \$60,103,000 in favour of the Lender for Phase I of the project at 8300 Kennedy Road in Markham, Ontario, and will be subordinate to the \$30,000,000 second Charge with Aviva Insurance Company, the Tarion Warranty Lender, with respect to securing purchaser deposits for Phase I. The Charge will be cross defaulted and cross collateralized with the Lender's Charge of Phase I.
2. Unlimited guarantee from D. Mady Holdings Inc. (the "Guarantor").
 Unlimited guarantee from D. Mady Investments Inc. (the "Guarantor").
 Unlimited guarantee from Mega GC Holdings Company Limited (the "Guarantor").
 Unlimited guarantee from Jade-Kennedy (Residential) Development Corporation (the "Guarantor") supported by an assignment of its assets in favour of the Lender.
 Guarantee from Charles Mady (the "Guarantor"), limited to the sum of \$19,096,855.50 plus interest and costs thereon.

3. General Security Agreement granting a charge over all real and personal property assets owned by the Borrower and all Beneficial Owners limited to the Project, which agreements are to be registered under the Personal Property Security Act (Ontario).
4. General Security Agreement granting a charge over all personal property assets owned by Jade-Kennedy (Residential) Development Corporation, inclusive of all beneficial interest of Jade-Kennedy (Residential) Development Corporation in all real and personal property and all agreements of purchase and sale. Which agreement is to be registered under the Personal Property Security act (Ontario).
5. Assignment of Rents and Leases for all leases and rents, income, profits and reimbursables arising from or in connection with the Property.
6. Postponement of shareholder loans in favour of the Lender by all shareholders of the Borrower who are not also guarantors of the Loan.
7. Beneficial Owners' Agreement from the Beneficial Owners, authorizing all Security Documents given by the Borrower, charging their beneficial interest(s) in the Project with a first priority security interest in favour of the Lender, and containing an assignment and postponement of claims.
8. Assignment of Insurance for all insurance required to be assigned as stipulated by Schedule "A", satisfactory to the Lender and its consultant. The Lender to be named loss payee and/or additional insured as first mortgagee where applicable.
9. Environmental Warranty and Indemnity Agreement by the Credit Parties stated to survive repayment of the Loan
10. Joint and several Cost Overrun and Completion Agreement from the Credit Parties to keep the Project clear of all construction liens, to complete the Project and to cover all cost overruns from their own personal resources.
11. Assignment of Material Agreements assigning the Borrower's rights and interest (but not the Borrower's obligations) in all professional, construction, management and other contracts, plans, specifications, working drawings, budgets and schedules for the provision of materials, equipment and services to the Property, whereby the Lender may assume upon demand the rights of the Borrower under said contracts if the Borrower is in default. The Lender may also require any present or future contracts to be specifically assigned to it.
12. Assignment of Sale Agreements assigning the Borrower's rights and interest (but not the Borrower's obligations) under all agreements of purchase and sale for the Project and proceeds thereof in favour of the Lender, subject only to the priority of the Deposit Lender (as hereafter defined) with respect to purchaser deposits only. Any other party named as a vendor in such agreements of purchase and sale will join in such Assignment in favour of the Lender.
13. Priorities Agreement with Aviva Canada Inc. (the "Deposit Lender"), in form and content satisfactory to the Lender, providing that the Deposit Lender's interest in the Project shall be limited to purchaser deposits and otherwise shall be subordinate to the Lender's interest, and further providing that the Deposit Lender shall deliver to the Lender forthwith upon request, such partial discharges, consents and other documentation required for the development of the Project, whether or not the Borrower is in default, without payment therefore and without additional cost to the Lender.
14. Subordination and Standstill Agreement prepared on the Lender's standard form and satisfactory to the Lender for any subsequent encumbrance approved in writing by the Lender (other than with Deposit Lender as provided above) to be executed and delivered to the Lender by such subordinate lender.

15. In the sole discretion of the Lender, an Acknowledgement from each material contractor for the Project, prepared on the Lender's standard form, acknowledging the terms and status of such contract as well as the assignment thereof to the Lender as security of the Borrower's rights and interest therein (but not the Borrower's obligations).
16. Undertaking to provide the Lender with a foundation survey of the Property on completion of the foundation for each building comprising the proposed improvements of the Property as well as an "as built" survey on completion of the Project, both of which surveys shall comply with the general survey provisions of this Commitment.
17. Right of First Opportunity Agreement to finance or arrange permanent financing of the Property and/or subsequent phases of development of the Project.
18. Line of Credit Agreement pertaining to Facility 3.
19. Letter of Indemnity Agreement pertaining to all letters of credit issued from time to time.
20. Laurentian Bank form of Identity Verification.
21. Opinions, as required by the terms of this Commitment.
22. A policy of title insurance for the Loan with a title insurer approved by the Lender may be required in the sole discretion of the Lender.
23. Any other documents, instruments, agreements, security and/or assurances as may reasonably be requested by the Lender or its solicitors.

16. CONDITIONS PRECEDENT TO INITIAL FUNDING:

1. Receipt and review of satisfactory detailed and current financial information from each of the Credit Parties including but not limited to personal net worth and/or financial statement(s). If a Credit Party is a newly incorporated company, an accountant or management prepared opening balance sheet will be required. Substantiation of net worth will be required satisfactory to the Lender.
 - a. Final accountant prepared Financial Statements will be required as of December 31, 2010 for The Mady Group - Canada and the following Credit Parties: D. Mady Investments Inc., D. Mady Holdings Inc., Mega GC Holdings Company Limited. These Financial Statements are to be delivered to the Lender within 60 days.
 - b. Receipt of a current, dated and signed detailed net worth statement from the following Credit Parties: Charles Mady.
 - c. Receipt of a current dated Financial Statements or opening Balance Sheet of Jade-Kennedy (Residential) Development Corporation.
2. Receipt and review of satisfactory credit reports for each of the Credit Parties, both prior to the initial advance of the Loan and at any time thereafter, as required by the Lender, until the Loan is fully repaid.
3. Receipt by the Lender of a satisfactory appraisal report prepared by a firm acceptable to the Lender supporting the land value together with a letter of transmittal in favour of the Lender and its assigns.
4. Satisfactory review of the Borrower's detailed Project budget and time frame for completion thereof, the approved plans and specifications, Borrower's cash flow statement, and the report from the Cost Consultant

confirming the reasonableness of the overall budget and that the costs to complete will not exceed the budgeted costs.

5. The Cost Consultant will review all final working drawings and specifications, and any other relevant material related to the Project. The Lender shall be supplied with the opinion of the Cost Consultant certifying the adequacy and approval of the following:
 - a. final plans and specifications; such plans and specifications are to comply with provincial and municipal requirements and any amendments are subject to confirmation by the Cost Consultant and approval by the Lender;
 - b. design criteria for the use of the Project;
 - c. compliance with all building codes and zoning regulations;
 - d. all applicable building, development, foundation and excavation permits;
 - e. adequacy of structural, electrical and mechanical systems;
 - f. adequacy of the Project budget; and,
 - g. monthly construction draw schedule and cash flow projection forecasting the amount and time of the draw requests.

The Cost Consultant shall also review all construction contracts and have the right to meet with all major trades and sub-trades in order to verify the ability of such trades to complete the construction of the Project in accordance with the approved plans and specifications as well as on time and within budget.

Where any advance of the Loan is contingent on the availability of any permit, the Cost Consultant shall receive satisfactory evidence of the availability or issuance of such permit.

6. Satisfactory evidence of proper zoning in place to accommodate the proposed development of the Project.
7. Satisfactory receipt and review by the Lender of copies of all relevant plans, specifications, working drawings and budgets pertaining to construction and completion of the Project (collectively, the "Project Documents"), together with a certificate from the Borrower's architect confirming that same accurately represent all material details of the Project and that the said budgets constitute an accurate representation of the anticipated cost of the Project allowing for reasonable contingencies. All Project Documents shall be subject to review and approval by the Lender and the Cost Consultant. The Cost Consultant shall confirm all relevant matters pertaining to the Project Documents, including, without limitation, that construction of the Project in accordance with the said plans and specifications will conform with all applicable laws, by-laws and regulations and that the said budgets are sufficient to allow completion of the Project in accordance with the said plans and specifications.
8. Satisfactory evidence that at least 50% of all hard costs have been fixed. Within 90 days of the initial advance satisfactory evidence is to be provided that at least 65% of all hard costs have been fixed.
9. Performance, labour and material bonds will not be required unless recommended by the Cost Consultant.
10. The Borrower is to open and maintain a segregated Project bank account with Laurentian Bank to receive all advances of the Loan and from which all Project expenses are to be paid.
11. The Lender shall be entitled to erect prominent signage on the Property indicating the source of financing, the location and size of such signage to be mutually agreed upon by the parties, provided that same

complies with the requirements of all governmental authorities having jurisdiction. All such signage to be in place no later than 30 days following the initial advance of the Loan.

12. The Borrower is to secure sufficient presales of residential and commercial/retail condominium units to arm's length, bona fide purchasers at projected prices that after deductions of the \$12,012,000 in purchaser deposits to be used in the project, \$1,956,000 in deferred costs and applicable HST for residential sales, the remaining sales proceeds will repay the \$38,193,711 Facility 1 loan in full. A minimum of 75% of the purchasers are to provide evidence of ability to close through mortgage commitments, cash in bank, or sale of existing home. Alternatively, evidence of ability to close will be waived where purchasers contract to make deposits of 25% of the purchase price or more. All sales are to be at budgeted pro forma selling prices or better.

Any shortfall in projected purchaser deposits of \$12,012,000 must be covered by an equivalent increase in Borrower equity.
 12. Satisfactory evidence of the enrolment of the Project with Tarion Warranty Corporation ("Tarion") pursuant to the provisions of the Ontario New Home Warranties Plan Act (Ontario) (the "Act"), the registration of the Borrower as "vendor" or "builder" of the Project (as applicable) and compliance with all applicable requirements of Tarion and the Act. Where any entity other than the Borrower has is the "vendor" or "builder" of the Project addition security in favour of the Lender from such entity is to be provided.
 13. Satisfactory receipt and review by the Lender's solicitors of a full and complete copy of the condominium Disclosure Statement provided to prospective purchasers of units in the Project.
 14. Satisfactory receipt and review by the Lender's solicitors of the standard form of purchase agreement to unit purchasers for the Project.
 15. Satisfactory Commitment Letter between the Borrower and the Deposit Lender (defined hereunder) insuring the purchaser deposits which are to be used in the Project.
 16. Statutory Declaration in form and content satisfactory to the Lender's solicitor is to be provided by the Borrower attesting, inter alia, as to: (a) the validity and enforceability of all such agreements of purchase and sale (the "Purchase Agreements") for the Project on which such advance is predicated; (b) the applicable rescission rights and termination rights in favour of purchasers; (c) any other conditions in the Purchaser Agreements in favour of the vendor or purchaser remaining to be satisfied; (d) the outside date beyond which unit purchaser have the right to terminate such agreements of purchase and sale; (e) the number of non-arms-length sales, offshore sales and multiple sales to the same purchaser; and, (f) any other matter pertaining to the Purchase Agreements for which the Lender reasonably requires assurances.
 17. Purchaser Deposits, not used in the Project, are to be held in trust by the Borrower's solicitor and deposited with Laurentian Bank.
 18. On a month to month basis and when requested by the Lender, the Borrower shall provide the Lender with up-dated monthly sales reports.
17. **AVAILABILITY:**
1. All advances shall be supported by satisfactory inspection and draw certificates and in amounts of not less than \$100,000 and occurring not more frequently than once per month.
 2. All requests for advances shall be accompanied by the written report (Certificate) of the Cost Consultant which shall include, at minimum, confirmation of each of the following which shall be satisfactory to the Lender:

- a. details of costs in place in reference to the approved budget;
- b. percentage complete;
- c. that the work to date is in accordance with the plans and specifications previously submitted to the Lender;
- d. cost to complete;
- e. that the approved budget remains adequate to complete the Project;
- f. if applicable to the particular advance, confirmation of required equity;
- g. review all paid invoices, cheque runs and/or cancelled cheques in excess of \$100,000 to ensure that the funds from prior advances of the Loan are being utilized only in the Project and,
- h. estimated completion date.

Accumulated advances shall at no time exceed the cost of work in place less holdbacks as required under the Construction Lien Act (Ontario), and less Borrower's required equity. In addition, the cost to complete shall at no time exceed the unadvanced portion of the Loan.

3. Each advance request shall be accompanied by a statutory declaration (or a certificate in the Lender's sole discretion) from the Borrower declaring that all sub-trades associated with the Project, and all hard and soft costs then incurred, have been fully paid through the date of the last draw preceding the current request. The statutory declaration shall further declare there has been no change in the amount of the construction budget. In connection with each draw request the Borrower shall also provide the Cost Consultant with the applicable form of Request for Advance and all supporting materials in connection therewith.
4. The Lender reserves the right to make progress advances directly to the contractor, sub-trades and/or suppliers if the Borrower is in default or if advances are being diverted from the Project. Prior to each advance the Borrower shall sign a statutory declaration that all proceeds are being used solely for payables pertaining to the Project.
5. The Lender shall charge an administrative fee of \$500 per advance.
6. A title search will be conducted with each advance of the Loan. The title search and solicitor's fees and expenses applicable thereto are for the account of the Borrower.

18. STANDARD CONDITIONS:

The Lender shall not be obliged to make any advance under the Loan unless the following conditions have been complied with and the Lender has received and approved the following documents and matters in form and substance satisfactory to the Lender and its solicitors:

1. Security in Place - All security and documentation to be in place in form and content satisfactory to the Lender and its solicitor.
2. Survey - As soon as is reasonably possible, but in any event sufficiently in advance of the initial advance of the Loan so as to enable the Lender's solicitors to obtain clearance of same from the relevant municipal authorities, the Borrower shall provide the Lender with an up-to-date survey of the Property prepared by a surveyor licensed in the jurisdiction in which the same is located, and showing:
 - a. all encroachments, easements and rights-of-way;

- b. the dimensions, boundaries and square footage of the Property;
- c. the location of all buildings and improvements on the Property, their dimensions and distance from the lot lines;
- d. particulars of adjacent properties and access to and from public highways; and
- e. all other particulars required to be shown on a survey prepared for the jurisdiction in which the Property is situate;

The survey must bear the name, address and signature of the surveyor, his official seal and licence number (if any, or both), the date of the survey and have thereon a Surveyor's Certificate in the form and content required by the jurisdiction(s) in which the Property is situate.

Where the Project will be under construction, prior to the initial advance the Borrower shall also provide a detailed site plan, and an architectural rendering, both of which shall be satisfactory to the Lender, showing the proposed development as a completed Project

3. Insurance - Not less than 5 days prior to the initial advance of the Loan, the Borrower shall provide the Lender with originals, or copies certified by the insurers, of insurance coverages in respect of the Property in form and content as more particularly set forth on Schedule "A" attached to and forming part of this Commitment. Such insurance coverages shall be maintained for so long as any monies remain outstanding under the Loan and shall at all times be upon terms and conditions satisfactory to the Lender and its solicitors and consultants. The Borrower acknowledges that all policies of insurance shall be subject to review and approval by an insurance consultant employed by the Lender for such purpose, and the Borrower agrees to pay for the consultant's fees in connection with such review.
4. Appraisal - The Borrower shall obtain, at its own expense, and provide the Lender with a satisfactory full narrative appraisal report of the Property prepared by an appraiser approved by the Lender and who is an AACI member of the Appraisal Institute of Canada or other recognized association or institution of appraisers as approved by the Lender, showing the market value of the Property on an "as is" basis "today" and the value of the Property on a "completion of construction basis".
5. Financing and Operating Statements - Prior to the initial advance of the Loan and thereafter within the periods of time hereinafter specified, the Borrower shall deliver or cause to be delivered to the Lender the following:
 - a. Within ninety (90) days after the end of each fiscal year of operation of the Property, an annual operating statement in respect of the Property for the immediately preceding fiscal year setting forth the gross rents and other income derived from the Property, the cost and expenses of operation and maintenance of the Property and such other information and explanations in respect of the same as may be required by the Lender;
 - b. Within ninety (90) days after the end of each fiscal year of each Credit Party which is a corporation, the annual financial statements of each such corporation for its immediately preceding fiscal year including, without limitation, the balance sheet of the corporation as at its fiscal year end with comparative figures for prior years, statements of earnings, retained earnings and changes in financial position as at the fiscal year end with comparative figures for prior fiscal years, any supporting schedules and notes thereto and such other information and explanations as may be required by the Lender; and,

- c. With respect to each Credit Party who is an individual and within thirty (30) days after each anniversary of the date of the Commitment, an annual updated net worth statement of each such individual in such form and including such content and other information and explanations as may be required by the Lender.

All such operating and financial statements shall be prepared at the expense of the Borrower and in accordance with generally accepted accounting principles ("GAAP") applied on a consistent basis and by a duly qualified chartered accountant or certified public accountant which is acceptable to the Lender, and shall be submitted in audited form if so required by the Lender at its option, and the completeness and correctness of such statements shall be supported by an affidavit of an authorized officer of the applicable Credit Party. For all financial periods beginning on or after January 1, 2011, the use of International Financial Reporting Standards ("IFRS") will be required for all Credit Parties which are: (a) Canadian public corporations; (b) Canadian publicly accountable entities; and/or, (c) entities constated or resident in a jurisdiction other than Canada for which IFRS standards are mandated by the accounting standards of such other jurisdiction.

6. Leases – All agreements to lease, leases, rents, income and profits arising from or in connection with the Property, and related to same (collectively, the "Leases") shall be submitted to the Lender, together with tenant acknowledgements for its review and approval prior to the initial advance of the Loan. The Borrower shall not collect any amounts due under the Leases for rents or otherwise in advance, other than the last month's rent due under any of the Leases and shall not waive, release, reduce or discount any such rents or other charges due under the Leases or grant any concession or privilege which would have the effect of reducing the rental consideration stated in the Leases. The Borrower shall not consent to any assignment of the Leases or subletting thereunder without the prior written consent of the Lender, such consent not to be unreasonably withheld. Prior to the initial advance of the Loan and every twelve months thereafter for so long as the Loan remain outstanding, the Borrower shall provide to the Lender a detailed list of all current tenants, rentals and other income of the Property. Prior to the initial advance, the Borrower shall deliver sufficient executed copies of a form of notice to the tenant under the Lease advising them that the Lease has been assigned as security for the Loan and directing them to recognize the rights of the Lender pursuant to the Security Documents and/or at law, provided always that the Lender shall not deliver such notice or collect rent under the Leases unless and until there is default by the Borrower under the Loan.

All Leases entered into by the Borrower after the date of the initial advance of the Loan and during the term of the Loan shall also be submitted to the Lender, together with (when requested by the Lender) tenant acknowledgements for its prior review and approval.

7. Agreements of Purchase and Sale – Full and complete copies of all Agreements of Purchase and Sale arising from or in connection with the Property, and all renewals, amendments, assignments or other agreements relating to same (collectively the "Agreements") shall be submitted to the Lender for its review and approval prior to the initial advance of the Loan, if not approved by the Lender prior to issuance of this Commitment. Further sales from time to time after the initial advance of the Loan, as applicable, shall also be submitted to the Lender for review and approval. A full and complete copy of any purchase agreement(s) and amendments thereto relating to the acquisition of the Property within the preceding two years shall also be provided to the Lender for review if requested.
8. Authority – Prior to the initial advance of the Loan, each Credit Party which is a corporation or partnership shall provide to the Lender such documentation as is reasonably satisfactory to the Lender and its solicitors evidencing its valid existence and subsistence, and power and authority to enter into the transaction contemplated by this Commitment and execute and deliver the security required hereunder, including, without limitation, a certificate of status, a certificate of non-restriction, a certified resolution of the board of directors (or partners or general partner as the case may be), a certificate of incumbency disclosing all directors, officers and shareholders (or partners, general partners and limited partners as the case may be) (such certificates may be combined into a single certificate for any Credit Party), and an opinion given by the solicitors for each such Credit Party as to due authorization, valid execution and delivery, enforceability and

any other matter reasonably requested, all of the foregoing in form and content reasonably satisfactory to the Lender and its solicitors. Where any Credit Party is a partnership, trust, co-ownership or joint venture, a copy of such documentation and all amendments thereto shall be supplied for review prior to the initial advance of the Loan.

9. Environmental Report - Prior to the initial advance of the Loan, the Borrower shall obtain at its own expense and provide to the Lender an environmental site assessment report, in form and content acceptable to the Lender, providing an opinion that the Property does not contain any site contamination or hazardous substances and confirming that the Property complies with all applicable environmental laws. The environmental opinion shall be prepared by a recognized firm of environmental consultants qualified in Ontario and acceptable to the Lender and with sufficient professional insurance in the opinion of the Lender. A letter of transmittal shall be provided by such firm in favour of the Lender and its assigns. The Borrower agrees to provide all information that it has with respect to environmental matters and hereby warrants that it shall provide full disclosure in this regard to the Lender.
10. Soil Tests - Prior to the initial advance of the Loan, the Borrower shall obtain at its own expense and provide to the Lender a geotechnical report, in form and content acceptable to the Lender, attesting to the satisfactory nature of the soil condition to support the buildings contemplated for the Project and confirming that the soil tests and other tests and examinations of the Property are satisfactory for construction and completion of the Project. The geotechnical report shall be prepared by a firm of geotechnical engineers qualified in Ontario, in good standing and acceptable to the Lender, and with sufficient professional insurance in the opinion of the Lender. A letter of transmittal shall be provided by such firm in favour of the Lender and its assigns.
11. Material Agreements - Prior to the initial advance of the Loan, the Borrower shall supply the Lender with full and complete copies of all material agreements for the development and management of the Project (and where applicable the sale thereof) and same shall be satisfactory to the Lender in all respects.
12. Organizational Charts - Prior to the initial advance of the Loan, the Lender shall have received organizational charts in satisfactory detail for all Credit Parties showing the officers, directors, shareholders, partners, general partners and limited partners thereof (as the case may be) and the relationship between such entities where applicable.
13. PPSA - Prior to the initial advance of the Loan, the Credit Parties shall provide the Lender with such third party comfort letters or discharges, as applicable, pursuant to the Personal Property Security Act (Ontario) (the "PPSA"), in form and substance as the Lender shall require, with respect to all PPSA filings appearing to grant a priority under the PPSA to any third party lender. In addition, to the extent that any Credit Party is not located in Ontario for conflicts purposes pursuant to the PPSA such matter shall be disclosed to the Lender for credit purposes and in any event prior to the initial advance.

19. ADVANCES:

The Lender shall not be obliged to make any advance under the Loan unless and until the terms and conditions of this Commitment have been fully complied with by the Credit Parties as the case may be. The Lender shall be entitled and is hereby authorized to deduct from any advance the amount due or to become due for interest from the date of such advance to the Interest Adjustment Date or next regular payment date, and the aggregate of all amounts owing for accrued and unpaid interest, fees of any nature or kind whatsoever including the Commitment Fee, appraisal fees and the legal fees and disbursements of the Lender's solicitors, and all other amounts, costs and expenses incurred by the Lender in connection with the Loan.

20. EXPIRY AND CANCELLATION:

The Lender shall have the right at its option, to terminate this Commitment or to demand repayment of the Loan or to add to or modify the conditions set out herein if the conditions of this Commitment are not met or if there is, in the opinion of the Lender or its solicitors, a material adverse change in the risk, the value of the security or the covenants required herein, or if the representations by the Borrower are not correct, or if the security has been impaired.

Without prejudice to and without derogating from any other rights of the Lender, the Lender shall also have the right, at its option, to terminate this Commitment or to demand repayment of the Loan if:

1. the Security Documents are not registered by September 1, 2011 provided that same have been delivered to the Borrower or its solicitors in a registrable form on the immediately preceding day; and
2. the first advance of funds is not made by September 1, 2011.

The Lender may, at its sole option from time to time, elect to extend the above-mentioned date by which the Security Documents are to be registered and/or the date by which the Loan is to be disbursed or any of the other time periods contained in this Commitment. Time shall remain of the essence of this Commitment and all other terms and conditions shall remain unchanged.

21. SALE OF PROPERTY:

In the event of a sale, transfer, conveyance or further encumbering of the Property, other than herein contemplated, or any part thereof, or a lease of the whole of the Property, or a change in the legal or beneficial ownership of the Property or any part thereof, or a change in control of the Borrower, the Loan shall, unless the written consent of the Lender has first been obtained, forthwith become due and repayable in full at the option of the Lender and the Borrower shall be deemed to be in default under the Loan and all security given for the Loan shall become immediately and fully enforceable.

22. MATERIAL REPRESENTATIONS:

If at any time before or after acceptance of this Commitment or advance of funds under the Loan, there is or has been any material adverse change, discrepancy or inaccuracy in any written information, statements or representations made or furnished to the Lender by or on behalf of any of the Credit Parties concerning the Properties or the financial condition and responsibility of any of the Credit Parties, or in the event of default by any of the Credit Parties under this Commitment, then, in the event of such default, or if such material change, discrepancy or inaccuracy cannot be rectified or nullified by the Credit Parties within thirty (30) days after written notification thereof by the Lender to the Borrower or such other Credit Party as applicable in the circumstances, the Lender shall be entitled forthwith to withdraw and cancel its obligations hereunder or decline to advance further funds, as the case may be, and to declare any funds which have been advanced, together with interest, to be forthwith due and repayable in full.

23. PREAUTHORIZED PAYMENT PLAN:

The Borrower shall execute and deliver to the Lender prior to the initial advance of the Loan such documentation required by the Lender so as to authorize and permit the Lender to have the monthly instalments due under the Loan deducted from the Borrower's bank account; provided that the Borrower shall forthwith execute and deliver to the Lender such other or additional preauthorized payment forms as may be required by the Lender from time to time or as may be necessitated by any change in the Borrower's bank account; and provided further that, in the event that the Lender in its sole discretion determines that it no longer wishes to utilize a preauthorized payment plan, the Borrower shall, upon thirty (30) days' prior written notice from the Lender, provide post-dated cheques to the Lender in the manner hereinbefore stipulated.

24. STANDARD CHARGE TERMS:

The Borrower acknowledges and agrees that the mortgage document may incorporate by reference any and all Standard Charge Terms required from time to time by the Lender for use in the jurisdiction in which the Property is situate, provided that the terms and provisions of the mortgage document shall not be limited to any such Standard Charge Terms and may incorporate such additional provisions as are contemplated by this Commitment and/or as may be considered advisable by the Lender or its solicitors in their sole but reasonable opinion. In this Commitment, "Standard Charge Terms" refers to any set of Standard Charge Terms filed on behalf of the Lender pursuant to the provisions of the Land Registration Reform Act (Ontario) or any other similar set of Standard Charge Terms filed on behalf of the Lender pursuant to the provisions of any similar legislation in the jurisdictions in which the Property is situate.

25. COVENANTORS:

In consideration of the Lender committing to make the Loan available to the Borrower (the receipt and sufficiency of which is hereby acknowledged by each Credit Party), each Credit Party in and executing this Commitment does hereby covenant, as principal debtor and not as surety, that he will pay or cause to be paid to the Lender all amounts due by the Borrower under the Loan (up to the limit provided for herein, if any) and will observe, keep and perform all of the terms and conditions set forth herein or required hereby to be observed, kept and performed by the Borrower pursuant to this Commitment or any of the Security Documents, and that after the first advance under the Loan, all present and future indebtedness of the Borrower to each Credit Party shall be assigned to the Lender and postponed to the present and future indebtedness of the Borrower to the Lender; and each Credit Party agrees that he shall execute the Security Documents or any of them, in such form as may be required by the Lender and its solicitors, in order to fully document and effectuate the intent and meaning of this paragraph.

26. TAXES:

All realty taxes and penalties, if any, due and payable and all outstanding levies, special assessments and other charges relating to the Property shall be paid in full by the Borrower prior to each advance under this Loan. The Lender reserves the right to pay future taxes and to collect from the Borrower an amount each month sufficient to pay the taxes in full by the due dates thereof.

27. COMPLIANCE WITH BY-LAWS, ETC.:

Prior to the initial advance of the Loan and thereafter prior to each advance, the Lender shall receive satisfactory evidence of compliance with all applicable building and zoning by-laws, restrictive covenants, agreements, rules and regulations of and with public authorities respecting the construction, use and occupancy of the Property. The Borrower agrees to provide written authority, duly signed by all owners of the Property and addressed to the requisite municipal or other authority having jurisdiction, so as to allow release to the Lender of any information contained in the records of such authority, or, at the Lender's option, to allow an inspection of the Property by such authority to determine any outstanding work orders or deficiencies.

28. WARRANTY AS TO TITLE AND AUTHORITY:

Except as may be otherwise provided in this Commitment, the Borrower hereby represents and warrant that:

1. The Borrower is the registered owner of the Property and bare trustee for Mady-Jade Corporation and Jolie-Jade Corporation being the sole Beneficial Owners thereof.
2. Title to the Property is good and marketable and free from all easements, rights-of-way, agreements, restrictions, mortgages, charges, liens, executions and other encumbrances, save and except those which have been disclosed to the Lender prior to the date of issuance of this Commitment and save for such other encumbrances which are determined by and in the sole discretion of the Lender and its solicitors as not materially adversely affecting the Lender's security;

3. All Credit Parties hereto have the right to enter into this Commitment and to charge or pledge the Property and other assets herein stipulated as security for the Loan; and,
4. The Property and other assets herein stipulated as security for the Loan do not, within the meaning of Section 244 of the Bankruptcy and Insolvency Act (Canada), comprise all or substantially all of the inventory, accounts receivable or other property of the Borrower acquired for or used in relation to any business carried on by the Borrower.

29. PRIOR ENCUMBRANCES:

This Commitment shall, upon acceptance by the Borrower, operate as a direction to the Lender to disburse at its sole option, out of the proceeds of each advance under this Loan, such amount or amounts sufficient to pay all outstanding realty taxes and penalties thereon, utility charges, construction and other liens and any and all other charges for deficiencies pertaining to the Property, the amount required to discharge any prior encumbrances not being assumed or to bring into good standing any encumbrances being assumed and any and all charges and expenses connected with the Loan, including, without limitation, all accrued and unpaid interest with respect to the Loan and all unpaid premiums for insurance of the Property.

30. NO SUBSEQUENT ENCUMBRANCES:

The Borrower covenants and agrees that it shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Property and/or any personal property associated therewith which is intended to rank subordinate to any of the Security Documents with the exception of the equity loan previously approved by the Lender with respect to Phase I of the Project., failing which, at the option of the Lender, the Loan shall immediately become due and payable.

The Lender acknowledges and consents to a subsequent charge in favour of the Deposit Lender to secure purchaser deposits in the Project.

The Lender acknowledges and consents to a subsequent charge in favour of D. Mady investments (2010) Inc. in the principal amount of \$12,800,000, representing the equity in Phase I of the Project, subject to execution by the said chargee of a Subordination and Standstill Agreement acceptable to the Lender.

31. HAZARDOUS SUBSTANCES:

1. In this Commitment, "Hazardous Substance" means any hazardous waste or substance, pollutant, contaminant, waste or other substance, whether solid, liquid or gaseous in form, which when released into the natural environment may, based upon reasonably authoritative information then available concerning such substance, immediately or in the future directly or indirectly cause material harm or degradation to the natural environment or to the health or welfare of any living thing and includes, without limiting the generality of the foregoing,
 - a. any such substance as defined or designated under any applicable laws and regulations for the protection of the environment or any living thing;
 - b. asbestos, urea formaldehyde, poly-chlorinated biphenyl (PCB) and materials manufactured with or containing the same; and
 - c. radioactive and toxic substances.
2. The Credit Parties each represent, warrant, covenant and agree that, except as disclosed to the Lender and or its environmental consultants:

- a. each has not and, to the best of their respective knowledge, information and belief after making due inquiry, no other person has caused or permitted any Hazardous Substance to be placed, stored, located or disposed of on, under or at the Property;
 - b. they and their tenants, invitees and other occupiers of the Property have and will at all times and, to the best of their respective knowledge, information and belief after making due inquiry, all prior owners and occupiers of the Properties have at all times carried out all business and other activities upon the Property in compliance with all applicable laws intended to protect the environment including, without limitation, laws respecting the discharge, emission, spill or disposal of any Hazardous Substance;
 - c. no order, direction, enforcement action or other governmental or regulatory action or notice, nor any action, suit or proceeding relating to any Hazardous Substance or the environment has been issued or is otherwise threatened or pending with respect to the Property;
 - d. each of the representations and warranties set out herein shall remain true and accurate in all respects up to and including the date of the first advance of funds and thereafter until the Loan is repaid in full; and
 - e. the Lender may delay or refuse to make any advance to the Borrower if the Lender believes that any of the representations and warranties set out herein were not true and accurate when made or at any time thereafter.
3. The Borrower shall permit the Lender to conduct, at the Borrower's expense, any and all tests, inspections, appraisals and environmental audits of the Property so as to determine and ensure compliance with the provisions of this paragraph including, without limitation, the right to conduct soil tests and to review and copy any records relating to the Property or the businesses and other activities conducted thereon at any reasonable time and from time to time.
4. The Credit Parties each jointly and severally agree to indemnify and save harmless the Lender and its officers, directors, employees, agents and shareholders from and against any and all losses, damages, costs and expenses of any and every nature and kind whatsoever which at any time or from time to time may be paid or incurred by or asserted against any of them as a direct or indirect result of (individually an "Environmental Breach" and collectively the "Environmental Breaches"):
- a. a breach of any of the representations, warranties or covenants hereinbefore set out;
 - b. the presence of any Hazardous Substance in, on or under the Property; or
 - c. the discharge, emission, spill or disposal of any Hazardous Substance from the Property into or upon any land, the atmosphere, any watercourse, body of water or wetland; and the provisions of all representations, warranties, covenants and indemnifications set out herein shall survive the repayment and satisfaction of the Loan and the release and discharge of the Security Documents.

And without the foregoing, in the event of the existence and/or occurrence of any and all Environmental Breaches, the Credit Parties shall forthwith:

- a. commence, carry out and satisfactorily complete the remediation of all such Environmental Breaches according to all applicable Environmental Laws and accordingly to the direction of the Lender and any environmental consultants then engaged by the Lender;
- b. pay, from their own resources, all amounts required in order to investigate, complete and record the remediation of all such Environmental Breaches; and,

- c. where required by the Lender, file a Record of Site Condition in respect of the completion of the afore-noted remediation.

32. ACCELERATION:

All indebtedness and liability of the Borrower to the Lender which is payable on demand, is repayable by the Borrower to the Lender at any time on demand.

All indebtedness and liability of the Borrower to the Lender which is not payable on demand shall, at the sole option of the Lender, become immediately due and payable and the Security shall, at the sole option of the Lender, become enforceable, and the obligation of the Lender to make further advances or other accommodation available under any credit facilities shall terminate if any of the following events (each event hereinafter called an "Event of Default") occurs:

- a. The Borrower or any Credit Party fails to make when due, whether on demand or on any scheduled payment date, by acceleration or otherwise, any payment of interest, principal, fees, commissions or other amounts payable to the Lender;
- b. The failure by the Borrower or any Credit Party to strictly and fully observe or perform any condition, agreement, covenant or term set out in this Commitment, the Security Documents and/or in any other document creating a contractual relationship as between them or any of them, or if it is found at any time that any representation of the Credit Parties with respect to the Loan and this Commitment is incorrect or misleading;
- c. The Borrower commits an act of bankruptcy, or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors, or if there is any receiver or receiver and manager or trustee appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Property or any part thereof or if any compromise or arrangement is made with any creditor;
- d. The Borrower dies, dissolves, amalgamates or is terminated;
- e. Any judgment or order or any process of any court becomes enforceable against the Borrower or any property of the Borrower or any creditor takes possession of any property of the Borrower;
- f. Any insurance policy for the Property lapses or is cancelled; and/or,
- g. Any adverse change occurs with respect to the Property, or, in the financial condition of the Borrower or any Credit Party.

33. SURVIVAL OF TERMS:

Notwithstanding the delivery and registration of any or all of the security contemplated by this Commitment and the advance of funds pursuant thereto, the terms and conditions of this Commitment shall remain binding and effective on the parties hereto, and shall not merge in the Security Documents or any of them, and the terms of this Commitment shall be incorporated by reference into the Security Documents.

In the event of any discrepancy between the terms of this Commitment and any of the Security Documents, or any discrepancy as between any of the Security Documents, the Lender, in its sole discretion, shall decide the provisions of which document shall prevail. In the event of any discrepancy between the provisions of this Commitment and the provisions of the Schedules attached thereto, the Lender, in its sole discretion, shall decide which of the two provisions shall prevail.

34. PROFESSIONAL ADVISORS:

1. Solicitors: All legal matters and documentation shall be satisfactory to the Lender's independent solicitors (the "Lender's Solicitors"), whose fees and disbursements the Credit Parties agree to pay whether or not this transaction is completed as contemplated herein. The Lender's solicitors are:

Walter Traub
 Goldman Sloan Nash and Haber LLP
 480 University Avenue, Suite 1600, Toronto, Ontario, M5G 1V2

Telephone: (416) 597-9922

2. Insurance Consultant: All insurance and bonding matters shall be reviewed by, and shall be satisfactory to, the Lender's Insurance consultants who are as follows:

INTECH RISK MANAGEMENT INC.
 3 Church Street, Suite 400, Toronto, Ontario, M5E 1M2
 Tel: 1 (800) 947-9666 or (416) 348-9111
 Fax: (416) 348-9121

The cost of the insurance review is for the sole account of the Borrower.

3. O'Keefe & Associates Limited; (240 Duncan Mill Road, Suite 500, Toronto, Ontario, M3B 1Z4, (416) 385-0019) or another firm acceptable to the Lender in its sole discretion (the "Cost Consultant") shall be engaged by the Borrower as cost consultant and project monitor with respect to the development and construction of the Project. The Cost Consultant will report directly to the Lender. The Cost Consultant will monitor all advances of the Loan and more generally, will verify and monitor all facets of the Project. All fees and expenses of the Cost Consultant are for the sole account of the Borrower.

35. SOLICITOR'S OPINION:

All advances in this Loan are subject to receipt by the Lender of an opinion acceptable to the Lender from its solicitors as to the effectiveness and priority of all Security Documents. The Borrower agrees to deliver to the Lender or its solicitors, forthwith upon request, such other documents, assurances, information and covenants as the solicitors for the Lender may reasonably require with regard to the Loan or the Security Documents to be given hereunder.

36. LENDER'S DOCUMENTATION:

All terms and conditions of the Lender's usual Security Documents and supporting documents shall be deemed to be incorporated in and form part of this Commitment. The form of all documentation shall be made available for the Borrower's inspection upon request. The Credit Parties acknowledge that the Lender's standard forms of Security Documents contain covenants, representations, warranties and events of default to which the various Credit Parties shall be bound, in addition to the covenants, representations, warranties and events of default contained in this Commitment. Prior to each advance, the Lender and its solicitors shall be satisfied with the form and content of all documents in connection with the Loan, all disbursement procedures and all matters relating to title and the security.

37. PAYMENT OF FEES AND COSTS:

The Borrower agrees to pay, on demand, whether or not the Loan or any part thereof is disbursed, all costs, fees and expenses related to the preparation, execution, registration, publication and renewal of the Loan and of the documentation (security documentation, agreements, or other) related to or required by this Commitment, as well as cost of investigation and certification of title by the Lender's solicitors, and all other fees and disbursements of the

Lender's solicitors, as well as appraisal costs, consultant's costs, insurance consultant's fees and out-of-pocket disbursements and expenses incurred by the Lender relating to the Loan, and all fees and costs incurred in connection with the realization of the Lender's security.

38. CREDIT INQUIRIES:

The Credit Parties acknowledge receipt of notice that usual credit and personal enquiries may be made at any time in connection with the credit hereby applied for and consent to disclosure of any such information to any other credit grantors or to any consumer reporting agency.

The Credit Parties agree that the Lender may until full payment of the amounts due obtain information on the undersigned from any individual authorized by law as well as from any personal information agent and any other individual named on the credit reports, any financial institution and hypothecary insurer.

The Credit Parties agree that the Lender may disclose the information it holds on the undersigned to any person authorized by law, personal information agent, financial institution, hypothecary insurer, surety, or with the consent of the undersigned to any other person who so requests it.

39. PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT:

Each of the Borrower, the Beneficial Owners and the Guarantors covenant and agree to provide, or cause to be provided, forthwith upon request, two (2) pieces of identification ("ID") (for up to three signing officers each) acceptable to the Lender together with satisfactory verification of the source of down payment, employment, income and assets and such other information and/or documentation as may be requested by the Lender to ensure compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)* and all regulations thereto. In addition, the Lender's standard form of Identity Verification for all such entities shall be executed and delivered as a condition of funding.

40. NOTICES:

All notices or other communications required to be given or which may be given under this Commitment shall be in writing duly executed by the party giving such notice or its solicitors, and shall be personally delivered or transmitted by registered mail or facsimile transmission addressed to the Lender at Laurentian Bank of Canada, 130 Adelaide Street West, Suite 300, Toronto, Ontario M5H 3P5 [Attention: Real Estate Legal Services] and to the Credit Parties at the address first above written or as otherwise indicated herein. Notices given by personal delivery or facsimile transmission shall be deemed to have been received on the day of and at the time of such delivery or transmission and all other notices shall be deemed to have been received at 2:00 p.m. on the second business day after the posting thereof. Any notice requesting or requiring response within five (5) or less business days from the date thereof shall be given by personal delivery or facsimile transmission. In the event of actual or reasonably anticipated postal disruption, all notices shall only be given by personal delivery or facsimile transmission. Any party may from time to time by notice given as provided herein change its address for the purpose of this provision.

41. ASSIGNMENT OF COMMITMENT:

This Commitment and the rights and benefits arising herefrom may not be assigned by the Borrower to any other party without the prior written consent of the Lender, which consent may be arbitrarily and unreasonably withheld.

42. TIME IS OF THE ESSENCE:

Time shall be of the essence in this Commitment. The times herein specified for the taking of certain action by the Borrower are in each case firm and shall not be extended without the written approval of the Lender.

43. PRIOR DEALINGS:

This Commitment shall supersede any and all prior dealings, whether written or oral, as between the parties hereto and relating to this Loan.

44. NO SET OFF:

The Borrower shall make all payments pursuant to this Commitment without set off, compensation or counterclaim. In addition, all payments shall be made free and clear of, and exempt from, and without any deduction for or on of account of any taxes.

45. ACCOUNT DEBIT AUTHORIZATION:

The Lender is authorized (but not obligated) at any time or from time to time, without notice to the Borrower or to any other person, any such notice being expressly waived by the Borrower, to set off, compensate and to apply (a) any and all deposits (general or special) held for or in the name of the Borrower, and (b) any indebtedness or liability at any time owing or payable by the Lender to or for the credit of or for the account of the Borrower, against and on account of the obligations and liabilities of the Borrower owing or payable to the Lender under this Commitment and the security or other agreements contemplated herein or therein, irrespective of currency, and whether or not the Lender has made any demand thereof, and whether or not these obligations and liabilities of the Borrower, or any of them, have matured. The Borrower and the Lender further agree that the benefits accruing to the Borrower of any term applicable to any deposit, credit, indebtedness, liability or obligation of the Lender (collectively, the "Deposit") shall be lost immediately before the time when the Lender shall exercise its rights pursuant hereto in respect of a relevant Deposit.

Without limiting the foregoing, the Borrower authorizes Laurentian Bank to automatically debit the Borrower's account(s) for all amounts payable by the Borrower under this Commitment including but not limited to the repayment of principal and the payment of interest, fees and expenses. In addition, Laurentian Bank shall have the right to automatically debit on a daily basis any credit balance in the Borrower's account(s) for the sole purpose of repaying any variable credit advances under the Loan.

46. AMENDMENTS:

No term or requirement of this Commitment or any Security Documents may be waived or varied orally or by any course of conduct of any officer, employee or agent of the Lender. Any amendment to this Commitment or any Security Document must be in writing and signed by a duly authorized officer of the Lender.

47. WAIVER OF DEFAULTS:

Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the Lender's rights resulting therefrom.

48. LENDER'S RECORDS:

In the absence of manifest error, the books and records held by the Lender will constitute conclusive evidence of the transactions carried out under this Commitment and of the Borrower's indebtedness to the Lender.

49. JUDGMENT CURRENCY:

If for the purpose of obtaining judgment in any court in any jurisdiction with respect to this Commitment, it becomes necessary to convert into the currency of such jurisdiction (herein called the "Judgment Currency") any amount due hereunder in any currency other than the Judgment Currency, then conversion shall be made at the rate of exchange prevailing on the business day before the day on which judgment is given. For this purpose, "rate of exchange" means the rate at which the Lender is able, on the relevant date, to sell the currency of the amount due hereunder in Canadian \$ or US \$, as the case may be, against the Judgment Currency. In the event that there is a change in the

rate of exchange prevailing between the business day before the day on which the judgment is given and the date of payment of the amount due, the Borrower will, on the date of payment, pay such additional amounts (if any) as may be necessary to ensure that the amount paid on such date is the amount in the Judgment Currency which, when converted at the rate of exchange prevailing on the date of payment, is the amount then due hereunder in Canadian \$ or US \$, as the case may be. Any additional amount due pursuant to this judgment currency provision will be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of this Commitment.

50. INTERPRETATION:

This Commitment shall be governed by and interpreted in accordance with the laws of the Province in which the Property is situate, and the parties hereto hereby attorn to such jurisdiction. This Commitment shall enure to the benefit of and shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. The paragraph and other headings set forth in this Commitment are inserted for convenience and reference only and shall in no way define or limit the intent or interpretation of any of the provisions hereof. This Commitment shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context, and the covenants and agreements of the Credit Parties shall be deemed to be joint and several where any of them are more than one entity. The terms and conditions set forth on any Schedules referred to and attached to this Commitment are deemed to be included in this Commitment and form a part hereof.

51. SEVERABILITY:

If for any reason whatsoever any section, paragraph, clause or portion of this Commitment, or the application thereof to any person, firm, corporation, entity or circumstances, is to any extent held or rendered invalid, unenforceable or illegal, then such section, paragraph, clause or portion thereof:

- a. is deemed to be independent of the remainder of this Commitment and to be severable and divisible therefrom, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Commitment or any part thereof; and,
- b. continues to be applicable to and enforceable to the fullest extent permitted by law against any other(s) than those as to which it has been held or rendered invalid, unenforceable or illegal.

52. SCHEDULES:

The following schedules form a part of this Commitment:

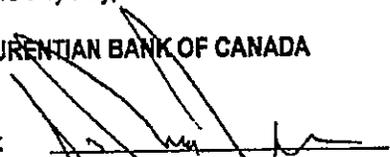
Schedule "A"	Insurance Requirements
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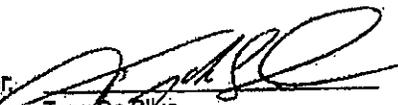
53. ACCEPTANCE:

This Commitment shall remain open for acceptance by the Credit Parties, in the manner herein specified, until 3:00 p.m. on the 12th day of August, 2011 after which time, if not accepted, the Lender's offer to finance set forth in this Commitment shall be null and void and the Lender shall be under no further obligation to extend or consider financing for the Borrower and the Lender shall not be responsible for any direct or indirect costs or damages incurred by the Borrower in consequence thereof. Acceptance of this Commitment shall have been properly completed when this Commitment, duly executed by the Credit Parties, the Commitment Fee and the Standby Deposit (if any) (as well as any other fees stated to be paid on acceptance thereof) are received by the Lender on or before the date and time herein stipulated.

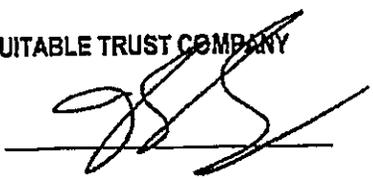
Yours very truly,

LAURENTIAN BANK OF CANADA

Per: 
Name: James D. MacGregor
Title: Assistant Vice President
Real Estate Financing

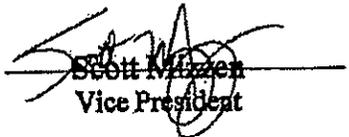
Per: 
Name: Tony Da Silva
Title: Vice President
Loan Syndications

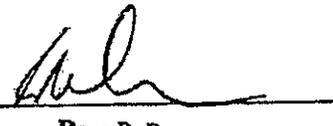
THE EQUITABLE TRUST COMPANY

Per: 
Name: W.R. Edmunds
Title: SVP Credit & CRO

Per: 
Name: Kasey Chauhan
Title: Senior Manager, Commercial Underwriting

PACIFIC & WESTERN BANK OF CANADA

Per: 
Name: Scott Mizen
Title: Vice President

Per: 
Name: Ross P. Duggan
Title: Senior Vice President, Lending

ACCEPTANCE

THE UNDERSIGNED hereby accept the terms and conditions of this Commitment as of this 15 day of September, 2011.

BORROWER: Jade-Kennedy Development Corporation

Per: _____
Name: Charles Mady
President

Per: _____
Name: [Signature]
I/we have the authority to bind the corporation

The Borrower confirms that the above financing is for its own use and is not intended to be used by or for the benefit of a third party and acknowledges having read and understood the terms and conditions of this Offer and accepts same.

GUARANTOR(S):

D. Mady Investments Inc.

Per: _____
Name: David Mady
President

Per: _____
Name: _____
I/we have the authority to bind the corporation

D. Mady Holdings Inc.

Per: _____
Name: David Mady
President

Per: _____
Name: _____
I/we have the authority to bind the corporation

Mega GC Holdings Company Limited

Per: _____
Name: Charles Mady
President

Per: _____
Name: _____
I/we have the authority to bind the corporation

Jade-Kennedy (Residential) Development Corporation

Per: [Signature]
Name: Charles Macy
President

Per: [Signature]
Name: _____
I/we have the authority to bind the corporation.

Signature: [Signature]
Name: Charles Macy
Address: 3211 Woodbine Av
Murkham ON

Witness: [Signature]
Signature: [Signature]
Name: Charles Macy
Address: 3211 Woodbine Av

Each Guarantor acknowledges having read and understood the terms and conditions of this Offer and accepts same.

BENEFICIAL OWNERS:

Mady-Jade Corporation

Per: [Signature]
Name: David Macy
President

Per: _____
Name: _____
I/we have the authority to bind the corporation

Jolie-Jade Corporation

Per: [Signature]
Name: _____

Per: _____
Name: _____
I/we have authority to bind the corporation

Each Beneficial Owner acknowledges having read and understood the terms and conditions of this Offer and accepts same.

SCHEDULE "A" - INSURANCE REQUIREMENTS

GENERAL

- i) All insurance policies referred to herein shall be in form and with insurers reasonably acceptable to Laurentian Bank and contain the original signatures of the insurers, not just the insurance broker or agent.
- ii) All policies shall be permitted to contain reasonable deductibles.
- iii) All property and, where applicable, boiler and machinery policies shall name Laurentian Bank as First Mortgagee and Loss Payee and contain a standard mortgage clause in favour of Laurentian Bank.
- iv) All policies of insurance and interim evidence thereof, shall provide for 30 days prior notice to Laurentian Bank of any adverse material change or cancellation.
- v) If the Borrower fails to take out and keep in force such minimum insurance as is required hereunder, then Laurentian Bank may, but shall not be obligated to, take out and keep in force such insurance at the immediate sole cost and expense of the Borrower plus costs incurred, or use other means at its disposal under the terms of the Mortgage.
- vi) It is clearly understood and agreed that the Insurance Requirements contained herein are a minimum guide and, although must be adhered to throughout the life of the Mortgage, in no way represent an opinion as to the full scope of insurance coverage a prudent Borrower would arrange to adequately protect its interests and the interests of Laurentian Bank and the Borrower must govern itself accordingly.

SPECIFIC - COMPLETED PROPERTIES

The following policies of insurance must be submitted, as required in the GENERAL section of the INSURANCE REQUIREMENTS.

- i) All Risks of physical loss or damage including sewer back-up, earthquake, flood and collapse for:
 - a) one hundred percent of the full replacement cost of the property, without deduction for foundations and footings. The replacement cost wording to have the "same or adjacent site" clause deleted and the policy to include increased cost of by-laws coverage including resultant loss of income. Co-insurance must either be waived or Stated Amount.
 - b) one hundred percent of the projected annual rents or revenue with a minimum period of indemnity of twelve months, or such greater period as Laurentian Bank may reasonably require.
- ii) Broad Form Boiler and Machinery with the same limits and by-laws extensions as the All Risks policy described in i) above.
- iii) Commercial General Liability with a limit of \$5,000,000 any one occurrence or such greater amount as Laurentian Bank may reasonably require. The policy to include the IBC 2313 wording, or its equivalent, for limited pollution cover. Laurentian Bank to be shown as an additional insured arising out of the operations of the insured.
- iv) Such other form or forms of insurance as Laurentian Bank may reasonably require, given the nature of the security and that which a prudent owner of similar security would purchase and maintain, or cause to be purchased and maintained.

SPECIFIC - COURSES OF CONSTRUCTION

The following policies of insurance must be submitted, as required in the GENERAL section of the INSURANCE REQUIREMENTS.

- i) All Risks Builders Risk Course of Construction (the latest CCDC 201 wording or its equivalent) on:
 - a) one hundred percent of the estimated final construction cost of the property, including recurring soft costs.
 - b) one hundred percent of the anticipated annual rents (assuming full occupancy) written on a Delayed Income basis.

The policy shall allow for partial or full occupancy.

All other terms and conditions shall apply as if there were an All Risks policy in force as described above in Section 2 SPECIFIC – COMPLETED PROPERTIES.

- ii) The Liability coverages as described more fully in paragraph iii) of SECTION 2 SPECIFIC – COMPLETED PROPERTIES. However, if the construction cost is in excess of \$10 million then a Wrap-up Liability is required with a limit of not less than \$10 million and must include all contractors, sub-contractors and trades.
- iii) Architects' and Engineers' errors and omission insurance for at least \$1 million or such greater amount as Laurentian Bank may reasonably require.
- iv) Performance, Labour and Material Bonds for the percentage of the contract prices as specified in the body of the Commitment (and if no percentage is specified then for 100% of all such contract prices), with Laurentian Bank shown as a Dual Obligee.
- v) Such other form or forms of insurance as Laurentian Bank may reasonably require, given the nature of the security and that which a prudent owner of similar security would purchase and maintain, or cause to be purchased and maintained.

If there are any questions regarding our insurance requirements please contact our insurance consultants.



8500 Leslie Street, Suite 100
 Thornhill, Ontario L3T 7M8
 Tel: 905.886.5020 Fax 905.886.5851

March 8, 2012

Mady Development Corporation
 100-8791 Woodbine Avenue
 Markham, Ontario L3R 0P4

Attention: Greg Puklicz
 Senior Vice President

Dear Sirs:

RE: Financing for the Construction of Phase II of Lands and Buildings described below and located at 8300 Kennedy Road, Markham, Ontario and which is known as The Residences at South Unionville Square (the "Project")

- **Borrower: Jade-Kennedy Development Corporation**
- **Loan No. 1413384.1**

This letter shall constitute an amendment to the executed Commitment Letter (the "Commitment") dated August 4, 2011, between LAURENTIAN BANK OF CANADA (hereinafter called "Laurentian Bank" or "LBC"), THE EQUITABLE TRUST COMPANY and PACIFIC & WESTERN BANK OF CANADA, severally, (all such lenders hereinafter collectively called the "Lender"). Which LBC is pleased to offer to the undersigned Borrower subject to the following terms and conditions:

1. ADDITIONAL PROJECT / SECURED PROPERTY:

The following additional lands shall be added to the security currently held by LBC in addition to the existing security for the Project

- a. Pursuant to a Land Exchange Agreement between Jade Kennedy Development Corporation and Abdul Jabbar, and dated December 11, 2009 (the Exchange Agreement") the Borrower has agreed to exchange part of its lands which are currently secured to LBC and described as Part of Lot 1, Registered Plan 2196, also designated as Parts 3 and 5, on Plan 65R-31952 (the "Jade Lands), for certain lands described as Part of Lot 2, Registered Plan 2196, also designated as Part 1, Plan 65R-27991 (the "Jabbar Lands").

In conjunction with such exchange the Jabbar Lands and all income and personal property related thereto (the "Jabbar Security") shall be charged and constitute additional security for LBC. Upon provision and registration of the Jabbar Security in form and content satisfactory to LBC, LBC shall provide to the Borrower a partial discharge of the Jade Lands from its existing security

- b. Approximately 0.145617 acres land known as 138 Helen Avenue in Markham, Ontario and described in Agreement of Purchase and Sale between Jade-Kennedy Development Corporation and Cai, Li Ying and Xu, Chun Lin, and all income and personal property related thereto, shall be charged and constitute additional security in favour of LBC for the Project.
- c. The additionally secured properties as per a) and b) above shall include lands to be developed with 253 residential condominium units plus approximately 13,938 square feet of retail space

and thirteen (13) residential lots to be serviced for townhomes plus two (2) residential lots to be serviced for single detached homes herein referred to collectively as ("Townhome and Single Detached Lands"). The Townhome and Single Detached Lands have been sold by the borrower pursuant to an Agreement of purchase and Sale dated November 24th, 2011 (the "Primont Agreement" to Primont Homes (Harmony) Inc. ("Primont") and upon completion of the sale pursuant to the Primont Agreement LBC will provide the Borrower with a partial discharge of the Townhome and Single Detached Lands in exchange for assignment in favour of LBC of all rights and benefits (but not the burdens) accruing to the Borrower pursuant to the Primont Agreement as set out under the heading "ADDITIONAL LOAN SECURITY" herein.

2. FACILITIES:

Facility 1: Demand Interim Non-Revolver Construction Loan Facility

The demand loan amount shall be reduced to \$35,643,553 (maximum) from prior committed \$38,193,711

Facility 2: Letters of Credit Facility

The aggregate amount is increased to \$3,550,158 from prior committed \$1,000,000.

Any draws under letters of credit, other than those for Tarion Warranty Corporation and for Parkland Dedication to the City, will result in offsetting reductions in amounts available under Facility 1. On completion and repayment of the Loan, any remaining outstanding Letters of Credit must be secured with equivalent cash deposits.

3. REPAYMENTS:

The Borrower shall repay to the Lender the advanced amount of \$2,550,158 Cash in-Lieu of Parkland. This repayment shall be available for re-advance subject to cancellation of the Letter(s) of Credit for Parkland Dedication in the same amount and provided that the Borrower executes amendments to LBC's current security documents including a mortgage amending agreement to the charge securing the Loan (the "Amended Charge") to make it cross defaulted and cross collateralized with the "Additional Loan Security" as hereafter set out.

4. ADDITIONAL LOAN SECURITY:

- 1) Assignment of the Borrower's rights and interest (but not the Borrower's obligations) under the Primont Agreement for the servicing of the Townhome and Single Detached Lands, and proceeds thereof in favour of the Lender. Any deposit funds from this sale shall be held in trust by the Borrower's/ vendor's solicitor in an LBC trust account, and be utilized to reduce the Construction Loan at the time of discharge of these serviced lots.
- 2) Specific assignment of the Vendor Take Back mortgage and any other security contemplated under the Primont Agreement (collectively, the "VTB Security")
- 3) Any further requirements and/or additional documents required by the Lender's solicitor to reflect the essence and intent of this agreement;
- 4) Additional Charge of the properties set out in Paragraphs 1.a and 1.b hereof, in the same amount and on the same terms as the current existing charge securing the Loan in favour of LBC to be cross-collateralized and cross defaulted with the Amended Charge;

Both the Additional Charge and the Amended Charge shall specifically further provide as follows:

- i) that default under either the Primont Agreement or the VTB Security shall constitute default under the Additional Charge and the Amended Charge;
- ii) that notification to LBC and/or registration on title to Townhome and Single Detached Lands of any construction liens, deficiency notices or environmental orders or breaches shall constitute default under the Additional Charge and the Amended Charge;

All other terms and conditions in the Loan Security section of the executed Commitment dated August 4, 2011 shall remain in full force and effect.

5. ADDITIONAL CONDITIONS:

- 1) Prior to providing the partial discharge of the Townhome and Single Detached Lands, the Lender's solicitor to confirm Lender has freehold charge on the amended land parcels in the same priority position as specified in the executed Commitment dated August 4, 2011.
- 2) The Lender's cost consultant is to review and confirm the overall budget incorporating the amendments herein specified.
- 3) All legal and other professional costs incurred by LBC with respect to this amended commitment and implementation thereof shall be for the account of the Borrower.

6. SCHEDULES:

The following schedule forms a part of this Amendment to Commitment:

Schedule "A" Pre-Authorized Payment (PAD)

The Borrower shall provide the Lender with original(s) of the initialed Pre-Authorized Payment form as set forth on Schedule "A" attached to and forming part of this Amendment to Commitment.

By initialing, the Borrower agrees to waive the requirements of the Canadian Payments Association for advanced notice regarding the amount(s) payable or the due dates of debits from your account and each time a change is made to the debit amounts or debit due dates.

7. ACCEPTANCE:

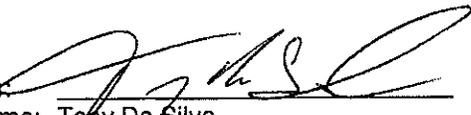
All other terms and conditions of the executed Commitment Letter dated August 4, 2011 shall remain in full force and effect.

Please signify your acceptance of the terms of this Amendment to Commitment by signing and returning one original executed copy to the undersigned by March 16, 2012.

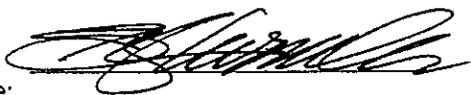
Yours very truly,

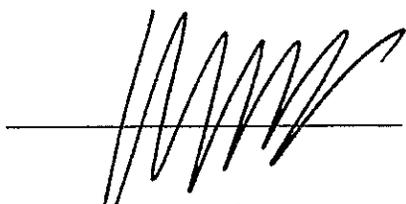
LAURENTIAN BANK OF CANADA

Per: 
 Name: Jeff Weiler
 Title: Assistant Vice President
 Real Estate Financing

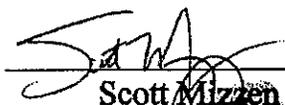
Per: 
 Name: Tony Da Silva
 Title: Vice President
 Real Estate Financing & Loan Syndications

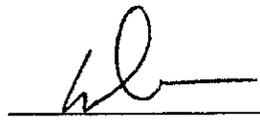
THE EQUITABLE TRUST COMPANY

Per: 
Name: _____
Title: **Sylvia Carvalho**
AVP, Commercial Portfolio Management

Per: 
Name: _____
Title: **Kasey Chauhan**
Director, Commercial Credit

PACIFIC & WESTERN BANK OF CANADA

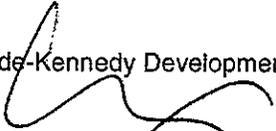
Per: 
Name: _____
Title: **Scott Mizzen**
Vice President

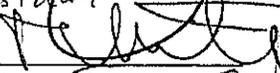
Per: 
Name: _____
Title: **Ross P. Duggan**
Senior Vice President, Lending

ACCEPTANCE

THE UNDERSIGNED hereby accept the terms and conditions of this Commitment as of this 13 day of March, 2012.

BORROWER: Jade-Kennedy Development Corporation

Per: 
Name: Charles Mady
President

Per: 
Name: Wilson Tran, Secretary
I/we have the authority to bind the corporation

The Borrower confirms that the above financing is for its own use and is not intended to be used by or for the benefit of a third party and acknowledges having read and understood the terms and conditions of this Offer and accepts same.

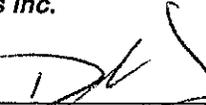
GUARANTOR(S):

D. Mady Investments Inc.

Per: 
Name: David Mady
President

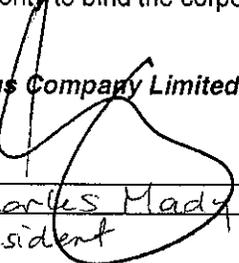
Per: _____
Name: _____
I/we have the authority to bind the corporation

D. Mady Holdings Inc.

Per: 
Name: David Mady
President

Per: _____
Name: _____
I/we have the authority to bind the corporation

Mega GC Holdings Company Limited

Per: 
Name: Charles Mady
President

Per: _____
Name: _____
I/we have the authority to bind the corporation

Jade-Kennedy (Residential) Development Corporation

Per: _____
Name: Charles Mady
President

Per: _____
Name: Wilson Tran
Secretary
I/we have the authority to bind the corporation

Signature: _____
Name: Charles Mady President
Address: _____

Witness: _____
Signature: _____
Name: CHUBB PUKUICZ
Address: _____

Each Guarantor acknowledges having read and understood the terms and conditions of this Offer and accepts same.

BENEFICIAL OWNERS:

Jade-Kennedy (Residential) Development Corporation

Per: _____
Name: Charles Mady
President

Per: _____
Name: Wilson Tran
Secretary
I/we have the authority to bind the corporation

Mady-Jade Corporation

Per: _____
Name: Charles Mady
President

Per: _____
Name: _____
I/we have the authority to bind the corporation

Jolie-Jade Corporation

Per: _____
Name: Wilson Tran
President

Per: _____
Name: _____
I/we have authority to bind the corporation

Each Beneficial Owner acknowledges having read and understood the terms and conditions of this Offer and accepts same.

SCCHEDULE "A" - PRE-AUTHORIZED PAYMENT (PAD)

You, as the account holder, authorize Laurentian Bank to debit the following business account number 0951146-01 held at Laurentian Bank Branch # 877, in accordance with the conditions you agreed upon in this Offer/Commitment Letter, unless otherwise notified in writing.

A debit in written, electronic, or other form, in the amount of the payment of each of the credit terms, and any periodic fee, can be withdrawn from the account of the Borrower according to the mentioned frequencies within this Offer/Commitment, as from the initial payment and up to complete payment of the advances. These amounts can be increased or decreased at any later date. The Bank shall take all reasonable steps to inform you of this change within a reasonable timeframe.

The branch of the financial institution where the account is held is not required to verify that the payment is drawn in accordance with this authorization and you acknowledge that the granting of said authorization to the Bank constitutes notice to the financial institution of said authorization.

You will notify the financial institution in writing of any changes to the account information.

This Agreement can be revoked at any time subject to 30 days notice. Contact your branch for more information on your right to cancel the Agreement or go to www.cdnpay.ca

You have certain rights of recourse if a debit is not in accordance with this Agreement. For example, you have the right to be reimbursed for any debit that is not authorized or that is not consistent with this Preauthorized Debit Agreement.

For more information on your rights of recourse, contact your branch or go to www.cdnpay.ca. You understand that a written statement to this effect must be provided to your financial institution.

You agree to waive the requirements of the Canadian Payments Association for advanced notice regarding the amount(s) payable or the due dates of debits from your account and each time a change is made to the debit amounts or debit due dates.

This page forms part of the Commitment /Amendment/Renewal Letter.

Initials cy ei

TAB G

LRO # 65 Charge/Mortgage

Received as YR1763873 on 2011 12 23 at 11:09

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 7

Properties

<i>PIN</i>	02963 - 3507 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PART OF LOT 9, CON. 6 (MARKHAM), PART 1 ON PLAN 65R19570 EXCEPT PT 1 65R31954; BLOCK 172,173,174 PLAN 65M3178 TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		
<i>PIN</i>	02963 - 3506 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	FIRSTLY: PT LT 3 PL 2196 MARKHAM PT 4, 65R28260 ; S/T EASE AS IN YR1657121; MARKHAM; SECONDLY: PT LT 1 PL 2196, PT 4 65R31954; S/T EASE AS IN YR1657121; TOWN OF MARKHAM; THIRDLY: PART LOT 1 PLAN 2196, PT 7 65R31954; S/T EASE AS IN YR1657121; TOWN OF MARKHAM; FOURTHLY: PT LT 2 PL 2196, PTS 15 & 16, 65R31952. S/T EASE IN FAVOUR OF PT LT 2 PL 2196 MARKHAM, PTS 1 & 8, 65R27668, UNTIL PT LT 2 PL 2196 MARKHAM, PTS 2, 3, 5, 6, 7, 65R27668 ARE DEDICATED AS PART OF PUBLIC HIGHWAY, AS IN YR623430; S/T EASE AS IN YR1657121; TOWN OF MARKHAM; FIFTHLY: PART LOT 2 PLAN 2196, PT 8 65R30830; S/T EASE AS IN YR1657121; TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		
<i>PIN</i>	02963 - 3406 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LOT 2 PL 2196 (MKM) PT 13 65R27668 EXCEPT PT 17 65R31952; S/T EASEMENT AS IN YR1657121 TOGETHER WITH AN EASEMENT OVER PT LOT 2 PL 2196 PTS 10, 11 & 12 65R27668 AS IN YR625087 TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		
<i>PIN</i>	02963 - 2972 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	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 SAID PTS 2, 3, 5, 6 & 7, 65R27668 ARE DEDICATED AS PART OF PUBLIC HIGHWAY, AS IN YR623430 ; S/T EASEMENT AS IN YR1657121 TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		
<i>PIN</i>	02963 - 2965 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	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 ; S/T EASEMENT AS IN YR1657121 TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		
<i>PIN</i>	02963 - 3459 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PART LOT 1 PLAN 2196, PT 5 65R31952 ; S/T EASEMENT AS IN YR1657121 TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		
<i>PIN</i>	02963 - 3513 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 2 PL 2196 MARKHAM, PT 18 65R31952; T/W ROW OVER PT LT 2 PL 2196, PTS 2, 3, 5, 6 & 7 65R27668 UNTIL DEDICATED AS PUBLIC HIGHWAY AS IN YR623430; TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		
<i>PIN</i>	02963 - 3464 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PART LOT 1 PLAN 2196, PTS 11, 13 & 14 65R31952 TOWN OF MARKHAM		
<i>Address</i>	MARKHAM		

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name JADE-KENNEDY DEVELOPMENT CORPORATION
Address for Service 8791 Woodbine Avenue, Suite 100
 Markham, Ontario L3R 0P4

I, Charles N. Mady, President and Wilson Tran, Secretary, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

LRO # 65 Charge/Mortgage

Received as YR1763873 on 2011 12 23 at 11:09

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 7

Chargee(s)	Capacity	Share
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Name	LAURENTIAN BANK OF CANADA
Address for Service	130 Adelalde Street West, Suite 300 Toronto, Ontario M5H 3P5

Provisions	
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Principal	\$ 45,000,000.00	Currency	CDN
Calculation Period	SEE SCHEDULE		
Balance Due Date	SEE SCHEDULE		
Interest Rate	SEE SCHEDULE		
Payments			
Interest Adjustment Date			
Payment Date	SEE SCHEDULE		
First Payment Date			
Last Payment Date			
Standard Charge Terms	201010		
Insurance Amount	full insurable value		
Guarantor			

Additional Provisions

See Schedules

Signed By

Cheryl Elizabeth Cochrane	480 University Ave, # 1600 Toronto M5G 1V2	acting for Chargor(s)	Signed	2011 12 23
Tel . 4165979922				
Fax 4165973370				

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

GOLDMAN SLOAN NASH & HABER LLP	480 University Ave, # 1600 Toronto M5G 1V2	2011 12 23
Tel 4165979922		
Fax 4165973370		

Fees/Taxes/Payment

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

File Number

Chargee Client File Number : GSNH111646

SCHEDULE "A"**A. PAYMENT PROVISIONS****1. LOAN FACILITIES EXTENDED TO CHARGOR AND SECURED HEREIN**

WHEREAS pursuant to the terms of the Commitment the Chargee has agreed to extend three loan facilities to the Chargor in the aggregate amount of THIRTY-NINE MILLION, FOUR HUNDRED AND FORTY-THREE THOUSAND, SEVEN HUNDRED AND ELEVEN DOLLARS (\$38,443,711.00) together with interest thereon as hereinafter set out, and costs, fees and other amounts thereon as provided in the Charge and at the rate hereinafter set out (collectively, the "Facilities") as follows:

- (a) **Facility "A"** – A construction loan to the Chargor in the principal amount of THIRTY-EIGHT MILLION, ONE HUNDRED AND NINETY-THREE THOUSAND, SEVEN HUNDRED AND ELEVEN DOLLARS (\$38,193,711.00) (the "Construction Loan");
- (b) **Facility "B"** – A revolving demand loan for the purpose of payment by the Chargor of between draw project expenses in the principal amount of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) (the "Demand Loan"), which shall be extended to the Chargor by way of an operating line of credit and a certain line of credit agreement (the "Line of Credit Agreement") relating thereto, and
- (c) **Facility "C"** -- Letters of credit to be issued in the aggregate principal amount of up to ONE MILLION DOLLARS (\$1,000,000.00) (hereinafter collectively, the "Letters of Credit").

THE TERMS of the above Facilities are set forth in greater detail hereafter.

AND THE CHARGOR hereby charges the Lands in favour of the Chargee with the indebtedness owing from time to time pursuant to Facilities "A", "B" and "C" and any increases thereof, if and when approved by the Chargee, up to the principal sum of FORTY-FIVE MILLION DOLLARS (\$45,000,000.00), together with interest thereon as hereinafter set out, and costs; fees and other amounts thereon as provided in the Charge and at the rate hereinafter set out.

THE CHARGOR acknowledges and agrees that notwithstanding that this Charge has been expressly written and intended to secure and charge the Lands for the face amount of FORTY-FIVE MILLION DOLLARS (\$45,000,000.00) on account of principal plus interest on principal advanced from time to time and all other indebtedness and charges and fees as herein provided, nothing herein shall obligate the Chargee to advance on account of principal any amount or amounts in excess of the principal amounts of Facilities "A" to "C", inclusive, as herein set out or as may be amended in writing from time to time by the Chargor and the Chargee, and nothing herein in itself shall be interpreted or intended to increase any principal amount of Facilities "A" to "C", inclusive, save and except as agreed in writing by the Chargor and the Chargee.

PROVIDED THIS CHARGE/MORTGAGE SHALL BE VOID upon payment at the office of the Chargee at Toronto, Ontario of the aggregate of the following amounts:

THE CHARGOR acknowledges that the requirements of the Commitment provides for a minimum interest rate of 5.0% per annum, calculated and payable monthly as herein set forth, as well after as before maturity and both before and after default and judgement (the "Minimum Interest Rate").

Facility "A":

In respect of Facility "A", the sum of THIRTY-EIGHT MILLION, ONE HUNDRED AND NINETY-THREE THOUSAND, SEVEN HUNDRED AND ELEVEN DOLLARS (\$38,193,711.00), of lawful money of Canada and any increases thereof, if and when approved by the Chargee, with interest thereon at that rate per annum which is the greater of: i) the Minimum Interest Rate; or ii) two percent (2.0%) greater than the annual prime lending rate of interest announced, quoted or charged from time to time by Laurentian Bank of Canada at its main branch in Toronto, Ontario as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada (the "Prime Rate"), which interest rate shall be adjusted daily as to fluctuations in the said Prime Rate and shall be calculated and compounded monthly as hereinafter set forth, as well after as before maturity and both before and after default and judgment as follows:

INTEREST adjusted daily and calculated and compounded monthly, not in advance, at the aforesaid rate on the amount advanced from time to time shall become due and be payable monthly on the first (1st) day of each and every month in each and every year from and including the first (1st) day of January, 2012 to and including the first (1st) day of June, 2014 and the balance of the aggregate amounts advances on account of principal together with interest thereon at the aforesaid rate shall become due and payable on the earlier of: i) demand by the Chargee; or ii) the first (1st) day of June, 2014 (the earlier of which shall be herein referred to as the "Maturity Date"). The first payment of interest to be computed from the date of the first advance to become due and payable on the first day of the month immediately following the month in which the first advance takes place.

Facility "B":

In respect of Facility "B", the unpaid principal balance of the Demand Loan not exceeding the principal sum of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00), together with interest thereon at that rate per annum which is the greater of: i) the Minimum Interest Rate; or ii) two percent (2.00%) above the Prime Rate which interest

rate shall be adjusted daily as to fluctuations in the said Prime Rate and shall be calculated and compounded monthly as hereinafter set forth, as well after as before maturity and both before and after default and judgment as follows:

INTEREST adjusted daily and calculated and compounded monthly, not in advance, at the aforesaid rate on the amount advanced from time to time shall become due and be payable monthly on the first (1st) day of each and every month in each and every year from and including the first (1st) day of January, 2012 to and including the first (1st) day of June, 2014 and the balance of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00), together with interest thereon at the aforesaid rate shall become due and payable on the Maturity Date. The first payment of interest to be computed from the date of the first advance to become due and payable on the first day of the month immediately following the month in which the first advance takes place;

AND NOTWITHSTANDING any other provision hereof or rule of law or equity to the contrary, and notwithstanding the existence of any subsequent encumbrance, the Chargor shall be permitted to revoke the Demand Loan to the Chargor and at any time and from time to time increase or decrease the principal amount of the Demand Loan secured hereunder provided that at no time shall the principal amount of the Demand Loan exceed the sum of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) plus interest and costs thereon as provided above. And the Chargor must repay to the Chargee the whole of the Demand Loan prior to each subsequent advance under the Construction Loan and so on and so forth from time to time and this Charge shall remain valid and binding security and retain absolute priority for the balance of the principal amount owing from time to time up to the amount of FORTY-FIVE MILLION DOLLARS (\$45,000,000.00), together with interest thereon as herein set out, and costs, fees and other amounts thereon as provided in the Charge and at the rate herein set out, notwithstanding such repayment in part or in full until a discharge is delivered by the Chargee to the Chargor;

AND THE CHARGOR acknowledges and agrees that any and all default under the terms and conditions of the Line of Credit Agreement shall constitute concurrent default under this Charge and any and all default under this Charge shall constitute concurrent default under the Line of Credit Agreement, whereupon the unpaid principal balance of Demand Loan together with interest and costs as aforesaid shall, at the option of and upon demand by the Chargee, become immediately due and repayable.

THE CHARGOR acknowledges and agrees that Facility "B" is not a construction loan and any draws pursuant thereto are not intended and shall not constitute construction advances or trust funds and to the extent of the advance proceeds thereof secured hereunder this Charge shall not constitute a "building mortgage", as these terms may be used or defined under any construction or builders lien legislation from time to time.

AND THE CHARGOR acknowledges and agrees that the aggregate total amount on account of principal of the funds advanced and owing under Facility "A" and Facility "B" shall at no time exceed the maximum amount of Facility "A".

Facility "C"

In respect of Facility "C", the lesser from time to time of the principal sum of ONE MILLION DOLLARS (\$1,000,000.00) of lawful money of Canada and the aggregate face amount of all Letters of Credit issued on behalf of the Chargor, together with payment to the Chargee on the issuance of each such Letter of Credit and each renewal thereof, of fees in the amount of one and three quarters percent (1.75%) on the face amount thereof, and together with interest at the rate provided in Facility "A" on any amount(s) drawn from time to time on any such Letter(s) of Credit by the holder(s) thereof until full repayment thereof by the Chargor.

PROVIDED ALWAYS that in no event shall the obligations of the Chargee pursuant to such Letters of Credit extend beyond the earlier of the Maturity Date and the date of provision by the Chargee of the final partial discharge of the Lands, the Chargor hereby agreeing that the Chargee's obligations in respect to such Letters of Credit shall be fully paid, released, secured and/or cash collateralized by the Chargor prior to the earlier of such dates.

This Facility "C" is strictly for securing any requirements and outstandings relating to the Tarion Warranty issued by the Tarion Warranty Corporation and for any requirements of any municipal or regional corporation in conjunction with the development to be secured by this Charge. Any other letters of credit which may from time to time be issued solely at the discretion of the Chargee shall only be issued on a duplicate nature basis and any draws under any Letter(s) of Credit other than those for the purposes of the Tarion Warranty Corporation shall result in offsetting reductions in Facility "A" and on completion and repayment of the loan secured by this Charge, any remaining outstanding Letter(s) of Credit shall be secured with equivalent cash deposits to the Chargee.

AND taxes and performance of Statute Labour; and observance and performance of all covenants, provisos and conditions herein contained.

2. COMPOUND INTEREST

AND it is hereby agreed that in case default shall be made in payment of any sum in respect of Facilities "A", "B" and "C" to become due for interest at any time appointed for payment thereof as aforesaid, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the rate aforesaid, and in case the interest and compound interest are not paid in one (1) month from the time of default a rest shall be made, and compound interest at the rate aforesaid shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Lands.

3. CAPITALIZATION OF INTEREST

AND the Chargee shall have the right at its sole option to capitalize any interest owing from time to time and to add same to the principal amount of the loan and to treat it as part thereof and charge interest thereon. Such capitalized interest and interest thereon shall at all times be secured under the security granted by the Chargor to the Chargee pursuant to this loan in first priority in the same manner as accrued interest. The Chargee at its sole option shall have the right to treat such capitalized interest as principal or accrued interest.

B. ADDITIONAL PROVISIONS1. AMENDMENTS TO STANDARD CHARGE TERMS 201010

- (a) The first sentence of Paragraph 33 – Letter of Credit contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

“THE PARTIES to this Charge hereby acknowledge and agree that, in addition to all other amounts advanced and/or secured hereby, this Charge shall stand as good and valid security with respect to any and all letters of credit, letters of guarantee or similar instruments (collectively the “Letters of Credit”) issued by or on behalf of the Chargee for the benefit of or on account of the Chargor and in favour of any other party as may be requested or directed by the Chargor from time to time, and that the total amount of the financial obligations under each Letter of Credit shall be deemed to have been advanced and fully secured under this Charge as of and from the date of issuance of each such Letter of Credit regardless of when the same may be called upon by the holder thereof.”

- (b) The only paragraph in Section 35 – No Further Encumbrances contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

“THE CHARGOR agrees not to enter into, create, incur, assume, suffer or permit to exist any other charge, pledge or other form of financing against the Lands and/or in respect of any chattels or other equipment directly related to the Lands, and not to further encumber same in any manner without the prior written consent of the Chargee, which approval shall be in the sole discretion of the Chargee save and except as follows:

- (a) a mortgage to a bonding company for the purposes of insuring purchaser deposits which shall rank subordinate to this Charge and which shall be subject to the approval of the Chargee or its solicitors. The said mortgage shall be required to enter into a Priorities Agreement in form and contents acceptable to the Chargee prior to registration of the subordinate charge; and
- (b) an equity interest mortgage which shall rank subordinate to this Charge and which shall be subject to the approval of the Chargee or its solicitors. The Chargee of the said mortgage shall be required to enter into a Subordination and Standstill Agreement in form and contents acceptable to the Chargee prior to the registration of such subordinate charge.”

- (c) Section 36 – Additional Events of Default contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

“If the Chargor or any Covenantor dies or commits an act of bankruptcy or becomes insolvent or has a receiver or receiver and manager appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Lands or any part thereof or if any compromise or arrangement with creditors is made by any of them; or,”

- (e) Section 65 – No Prepayments contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

“REPAYMENTS

THE CHARGOR, when not in default hereunder, shall have the privilege to prepay all or any part of the amount outstanding under this Charge prior to the maturity date thereof without notice or bonus.”

- (d) Section 66 – No Partial Discharges contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

“PARTIAL DISCHARGES

THE CHARGOR AND CHARGEe agree that partial discharge of the Charge will be provided under the following circumstances:

- (a) PROVIDED THAT upon registration of a plan of condominium of the Lands in accordance with the plans and specifications approved by the Chargee, and provided that no Event of Default has then occurred, and upon the sale of any condominium unit (the “Unit”) to an approved purchaser pursuant to the terms of the Commitment, the Chargee agrees to provide to the Chargor a partial discharge of such Unit, upon fulfilment of the following conditions to the satisfaction of the Chargee:
- (i) compliance with the provisions of the *Planning Act* (Ontario) with respect to such partial discharge;

- (ii) payment of the Chargee's administrative fee of \$150.00 in respect of each discharge document (single or multiples) executed by the Chargee;
- (iii) all fees and expenses of the Chargee's solicitors with respect to the granting of such partial discharges are paid in full prior to the delivery of such partial discharges;
- (iv) payment to the Chargee of any accrued and unpaid interest or other charges then due and owing pursuant to this Charge; and,
- (v) the Chargee receives in respect of such Unit, forthwith after completion of the sale of such Unit, a solicitor's certified trust cheque payable to the Chargee in an amount equal to one hundred percent (100.0%) of the Net Sale Proceeds (as hereafter defined) in respect of such Unit.

"Net Sale Proceeds" in respect of any such Unit means the sale price of such Unit (as previously approved by the Chargee and as specified in the agreement of purchase and sale (the "Purchase Agreement") relating to such Unit), less the aggregate of: (a) all deposits paid by or on behalf of the purchaser of such Unit, provided that same have been utilized by the Chargee for the purpose of satisfying construction costs with respect to the Lands as per the terms of the Commitment, or provided that same have previously been delivered to the Chargee; (b) goods and services taxes exigible thereon pursuant to the *Excise Tax Act* (Canada) and payable by the Chargor pursuant to the terms of the Purchase Agreement; (c) usual and reasonable adjustments credited to the purchaser in the statement of adjustments on closing; (d) reasonable fees and expenses of the Chargor's solicitors with respect to the sale of such Unit (provided such fees and expenses are not in the aggregate in excess of the amount budgeted therefor); and, (e) reasonable real estate commissions with respect to the sale of such Unit (provided such fees and expenses are not in the aggregate in excess of the amount budgeted therefor). "

2. DEVELOPMENT PROVISIONS

PROVIDED THAT the Chargor shall be entitled and is hereby authorized to do any of the following, at any time and without payment to the Chargee and without the same being deemed an act or acts of waste hereunder:

- (a) strictly in accordance with the terms of the Commitment and the plan of development approved by the Chargee, and in accordance with the laws and regulations of all applicable Governmental Bodies (as hereafter defined), to demolish or remove any and all buildings and improvements now situate upon the Lands; and,
- (b) to commence, carry out and complete, in accordance with the laws and regulations of all applicable Governmental Bodies (as hereafter defined), the terms of the Commitment and the plan of development approved by the Chargee, any and all construction works and building operations on the Lands, including without limitation excavation and grading, installation of roads, walkways, utilities, watermains, sewers and other services and all other acts incidental to the development of the Lands.

PROVIDED FURTHER and so long as the Chargor is in all respects in good standing pursuant to this Charge and the Commitment, and subject to the conditions of consent for registration of a plan of condominium as provided above, and provided that the Chargor shall pay all reasonable costs of the Chargee's solicitor reviewing and advising on any of the hereafter noted matters, and subject as hereinafter provided, then the Chargee shall, as soon as reasonably possible, and without further payment by the Chargor on account of principal and/or interest, execute and deliver the following to the Chargor:

- (a) such plans and documents as may be required in order to facilitate the registration of reference plan(s) and/or plans of condominium or subdivision of the Lands, and/or as may be required in order to re-zone the Lands, and in connection therewith the Chargee shall do everything to facilitate same, including the execution of such agreement(s) with the municipality or any municipal authority as may be required for registration or re-zoning as aforesaid;
- (b) such partial discharge(s) or other assurances as may be required in order to convey to any Governmental Body any lands as required for municipal or governmental purposes so long as the Chargor receives no compensation from such Governmental Body, including, without limiting the generality of the foregoing, such lands as may be required for public purposes such as roads, road widenings, walkways, one foot reserves and parks;
- (c) such consents and postponements as may be required for the creation of easements for utilities or municipal purposes, or for easements and rights of way between the Lands and any adjoining properties; and,
- (d) such consents, acknowledgements and documents as may be required by the Chargor for the purpose of enabling the Lands to be brought forward into and governed by the *Land Titles Act* (Ontario) and/or for conversion to absolute parcel status and/or (subject to compliance with the provisions hereof relating thereto) for enabling the Lands to be governed by the *Condominium Act, 1998* (Ontario);

PROVIDED ALWAYS that the Chargee shall not be required to execute or deliver any documentation as aforesaid which may impose any financial obligation upon the Chargee, or which is contrary to the terms of the

Charge or the Commitment, or which otherwise adversely or materially impacts on the priority of the Charge or on the value of or the utility of the Lands.

3. **CONFLICTS**

IN THE EVENT of any inconsistencies or conflicts between these Additional Provisions and the Charge Terms, these Additional Provisions shall prevail.

4. **PARI PASSU – CROSS DEFAULT**

REFERENCE is made to a Charge/Mortgage in favour of the Chargee in the principal amount of **SIXTY MILLION, ONE HUNDRED AND THREE THOUSAND DOLLARS (\$60,103,000.00)** registered on the title to the Lands on February 25, 2010 as Instrument No. YR1445317, as may be amended from time to time (the "Existing Charge").

IT IS ACKNOWLEDGED and agreed that, notwithstanding the order of registration of the Existing Charge and this Charge, the indebtedness secured by the Existing Charge and the indebtedness secured by this Charge (collectively, the "Combined Indebtedness") shall rank *pari passu* as if the Combined Indebtedness was secured under one charge. The said Combined Indebtedness shall at all times and from time to time be fully secured by both the Existing Charge and this Charge. Default under the Existing Charge shall be deemed to be default under this Charge, and default under this Charge shall be deemed to be default under the Existing Charge. In the event of default under either the Existing Charge or this Charge, the Chargee shall be entitled to exercise any and all remedies available to it pursuant to the Existing Charge and this Charge, or either of them, at its sole discretion.

5. **PRIORITIES, POSTPONEMENTS, SUBORDINATIONS AND DISCHARGES**

THE CHARGOR hereby acknowledges and agrees that the following priorities shall govern with respect to the Existing Charge and this Charge respectively, namely;

- (a) The Existing Charge, and all advances thereunder from time to time, up to the maximum principal amount advanced by the Chargee under the Existing Charge, but not exceeding the sum of **SIXTY-MILLION, ONE HUNDRED AND THREE THOUSAND DOLLARS (\$60,103,000.00)**, together with interest thereon and costs of enforcement thereof, and all other amounts owing to the Chargee pursuant to the Existing Charge shall constitute a first charge and security interest in respect of the Lands, ranking *pari-passu* in all respects with this Charge, until a legal severance (whether by virtue of declaration of a Plan of Condominium with respect to the lands and buildings intended to be secured by the Existing Charge pursuant to the Commitment as amended, issued for the loan secured by the Existing Charge, (herein called the "Initial Phase Lands")) or the appropriate consents pursuant to the provisions of the Planning Act, in each instance allowing for independent conveyance or charge of the Initial Phase Lands (herein called the "Severance") has been obtained by the Chargor or anyone claiming through or on the Chargor's behalf;
- (b) Following the Severance, the Existing Charge and all advances thereunder from time to time, shall constitute a first charge and security interest in respect of the Initial Phase Lands only;
- (c) Ninety (90) days following the Severance, the Chargee shall forthwith register a full discharge of the Existing Charge as against the Lands less the Initial Phase Lands (which remaining portion of the Lands is herein referred to as the "Subsequent Phase Lands") without any requirement for any payment on account of the Existing Charge and regardless of the status of the Existing Charge;
- (d) This Charge, and all advances thereunder from time to time, up to the maximum principal amount advanced thereunder, together with interest thereon and costs of enforcement thereof and all other amounts owing in respect of this Charge shall constitute a first charge and security interest in respect of the Lands, ranking *pari passu* with the Existing Charge, until the Severance has been obtained by the Chargor or anyone claiming through or on the Chargor's behalf;
- (e) Following the Severance, this Charge, and all advances thereunder from time to time, shall constitute a first charge and security interest in respect of the Subsequent Phase Lands only; and
- (f) Ninety (90) days following the Severance, the Chargee shall forthwith register a full discharge of this Charge as against the Initial Phase Lands without any requirement for any payment on account of this Charge and regardless of the status of this Charge.

IN THE EVENT of an occurrence of a default from time to time, prior to the Severance, by the Chargor with respect to either this Charge and/or the Existing Charge as the case may be, which results in enforcement proceedings being taken in respect thereof, the proceeds of sale resulting from such enforcement proceedings shall in every event be distributed as follows: (a) firstly, in repayment in full on a *pari passu* basis of all governmental creditors with a priority or a super-priority in respect of the Initial Phase Lands and the Subsequent Phase Lands; (b) secondly, to the Chargee on a *pari passu* basis on account of this Charge and the Existing Charge until repayment in full of the Existing Charge and this Charge;

LRO # 65 Charge/Mortgage

Received as YR1832072 on 2012 06 01 at 14:02

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 8

Properties

<i>PIN</i>	02963 - 3459 LT	<i>Interest/Estate</i>	Fee Simple	<input checked="" type="checkbox"/> Affects Part of Prop
<i>Description</i>	PTS 1 & 2 PL 65R33243; S/T EASEMENT AS IN YR1657121; TOWN OF MARKHAM			
<i>Address</i>	MARKHAM			
<i>PIN</i>	02963 - 3392 LT	<i>Interest/Estate</i>	Fee Simple	<input checked="" type="checkbox"/> Affects Part of Prop
<i>Description</i>	PT LT 2 PL 2196, PTS 10 PL 65R33243; S/T EASEMENT IN GROSS AS IN YR767057; TOWN OF MARKHAM			
<i>Address</i>	MARKHAM			
<i>PIN</i>	02963 - 2972 LT	<i>Interest/Estate</i>	Fee Simple	
<i>Description</i>	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 SAID PTS 2, 3, 5, 6 & 7, 65R27668 ARE DEDICATED AS PART OF PUBLIC HIGHWAY, AS IN YR623430 ; S/T EASEMENT AS IN YR1657121; TOWN OF MARKHAM			
<i>Address</i>	MARKHAM			
<i>PIN</i>	02963 - 2965 LT	<i>Interest/Estate</i>	Fee Simple	
<i>Description</i>	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 ; S/T EASEMENT AS IN YR1657121; TOWN OF MARKHAM			
<i>Address</i>	MARKHAM			
<i>PIN</i>	02963 - 3571 LT	<i>Interest/Estate</i>	Fee Simple	
<i>Description</i>	PT LT 2 PL 2196, BEING PTS 2 & 3 PL 65R33603;; TOWN OF MARKHAM			
<i>Address</i>	MARKHAM			

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name JADE-KENNEDY DEVELOPMENT CORPORATION
Address for Service 8791 Woodbine Avenue, Suite 100
 Markham, Ontario L3R 0P4

I, Charles N. Mady, President and Wilson Tran, Secretary, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Chargee(s)*Capacity**Share*

Name LAURENTIAN BANK OF CANADA
Address for Service 130 Adelaide Street West, Suite 300
 Toronto, Ontario M5H 3P5

LRO # 65 Charge/Mortgage

Received as YR1832072 on 2012 06 01 at 14:02

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 8

Provisions

<i>Principal</i>	\$ 45,000,000.00	<i>Currency</i>	CDN
<i>Calculation Period</i>	SEE SCHEDULE		
<i>Balance Due Date</i>	SEE SCHEDULE		
<i>Interest Rate</i>	SEE SCHEDULE		
<i>Payments</i>			
<i>Interest Adjustment Date</i>			
<i>Payment Date</i>	SEE SCHEDULE		
<i>First Payment Date</i>			
<i>Last Payment Date</i>			
<i>Standard Charge Terms</i>	201010		
<i>Insurance Amount</i>	full insurable value		
<i>Guarantor</i>			

Additional Provisions

See Schedules

Signed By

Jean Louise Humphrey	480 University Ave, # 1600 Toronto M5G 1V2	acting for Chargor(s)	First Signed 2012 05 31
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Tel 4165979922

Fax 4165973370

Jean Louise Humphrey	480 University Ave, # 1600 Toronto M5G 1V2	acting for Chargor(s)	Last Signed 2012 06 08
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Tel 4165979922

Fax 4165973370

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

GOLDMAN SLOAN NASH & HABER LLP	480 University Ave, # 1600 Toronto M5G 1V2	2012 06 08
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Tel 4165979922

Fax 4165973370

Fees/Taxes/Payment

Statutory Registration Fee \$60.00

Total Paid \$60.00

File Number

Chargor Client File Number :

GSNH111648

SCHEDULE "A"A. PAYMENT PROVISIONS1. LOAN FACILITIES EXTENDED TO CHARGOR AND SECURED HEREIN

WHEREAS pursuant to the terms of the Commitment the Chargee has agreed to extend three loan facilities to the Chargor in the aggregate amount of THIRTY-NINE MILLION, FOUR HUNDRED AND FORTY-THREE THOUSAND, SEVEN HUNDRED AND ELEVEN DOLLARS (\$39,443,711.00.00) together with interest thereon as hereinafter set out, and costs, fees and other amounts thereon as provided in the Charge and at the rate hereinafter set out (collectively, the "Facilities") as follows:

- (a) Facility "A" – A construction loan to the Chargor in the principal amount of THIRTY-FIVE MILLION, SIX HUNDRED AND FORTY-THREE THOUSAND, FIVE HUNDRED AND FIFTY-THREE DOLLARS (\$35,643,553.00) (the "Construction Loan");
- (b) Facility "B" – A revolving demand loan for the purpose of payment by the Chargor of between draw project expenses in the principal amount of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) (the "Demand Loan"), which shall be extended to the Chargor by way of an operating line of credit and a certain line of credit agreement (the "Line of Credit Agreement") relating thereto, and
- (c) Facility "C" – Letters of credit to be issued in the aggregate principal amount of up to THREE MILLION, FIVE HUNDRED AND FIFTY THOUSAND, ONE HUNDRED AND FIFTY-EIGHT DOLLARS (\$3,550,158.00.00) (hereinafter collectively, the "Letters of Credit").

THE TERMS of the above Facilities are set forth in greater detail hereafter.

AND THE CHARGOR hereby charges the Lands in favour of the Chargee with the Indebtedness owing from time to time pursuant to Facilities "A", "B" and "C" and any increases thereof, if and when approved by the Chargee, up to the principal sum of FORTY-FIVE MILLION DOLLARS (\$45,000,000.00), together with interest thereon as hereinafter set out, and costs, fees and other amounts thereon as provided in the Charge and at the rate hereinafter set out.

THE CHARGOR acknowledges and agrees that notwithstanding that this Charge has been expressly written and intended to secure and charge the Lands for the face amount of FORTY-FIVE MILLION DOLLARS (\$45,000,000.00) on account of principal plus interest on principal advanced from time to time and all other indebtedness and charges and fees as herein provided, nothing herein shall obligate the Chargee to advance on account of principal any amount or amounts in excess of the principal amounts of Facilities "A" to "C", inclusive, as herein set out or as may be amended in writing from time to time by the Chargor and the Chargee, and nothing herein in itself shall be interpreted or intended to increase any principal amount of Facilities "A" to "C", inclusive, save and except as agreed in writing by the Chargor and the Chargee.

PROVIDED THIS CHARGE/MORTGAGE SHALL BE VOID upon payment at the office of the Chargee at Toronto, Ontario of the aggregate of the following amounts:

THE CHARGOR acknowledges that the requirements of the Commitment provides for a minimum interest rate of 5.0% per annum, calculated and payable monthly as herein set forth, as well after as before maturity and both before and after default and judgement (the "Minimum Interest Rate").

Facility "A":

In respect of Facility "A", the sum of THIRTY-FIVE MILLION, SIX HUNDRED AND FORTY-THREE THOUSAND, FIVE HUNDRED AND FIFTY-THREE DOLLARS (\$35,643,553.00), of lawful money of Canada and any increases thereof, if and when approved by the Chargee, with interest thereon at that rate per annum which is the greater of: i) the Minimum Interest Rate; or ii) two percent (2.0%) greater than the annual prime lending rate of interest announced, quoted or charged from time to time by Laurentian Bank of Canada at its main branch in Toronto, Ontario as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada (the "Prime Rate"), which interest rate shall be adjusted daily as to fluctuations in the said Prime Rate and shall be calculated and compounded monthly as hereinafter set forth, as well after as before maturity and both before and after default and judgement as follows:

INTEREST adjusted daily and calculated and compounded monthly, not in advance, at the aforesaid rate on the amount advanced from time to time shall become due and be payable monthly on the first (1st) day of each and every month in each and every year from and including the first (1st) day of January, 2012 to and including the first (1st) day of June, 2014 and the balance of the aggregate amounts advances on account of principal together with interest thereon at the aforesaid rate shall become due and payable on the earlier of: i) demand by the Chargee; or ii) the first (1st) day of June, 2014 (the earlier of which shall be herein referred to as the "Maturity Date"). The first payment of interest to be computed from the date of the first advance to become due and payable on the first day of the month immediately following the month in which the first advance takes place.

Facility "B":

In respect of Facility "B", the unpaid principal balance of the Demand Loan not exceeding the principal sum of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00), together with interest thereon at that rate per annum

which is the greater of: i) the Minimum Interest Rate; or ii) two percent (2.00%) above the Prime Rate which interest rate shall be adjusted daily as to fluctuations in the said Prime Rate and shall be calculated and compounded monthly as hereinafter set forth, as well after as before maturity and both before and after default and judgment as follows:

INTEREST adjusted daily and calculated and compounded monthly, not in advance, at the aforesaid rate on the amount advanced from time to time shall become due and be payable monthly on the first (1st) day of each and every month in each and every year from and including the first (1st) day of January, 2012 to and including the first (1st) day of June, 2014 and the balance of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00), together with interest thereon at the aforesaid rate shall become due and payable on the Maturity Date. The first payment of interest to be computed from the date of the first advance to become due and payable on the first day of the month immediately following the month in which the first advance takes place;

AND NOTWITHSTANDING any other provision hereof or rule of law or equity to the contrary, and notwithstanding the existence of any subsequent encumbrance, the Chargor shall be permitted to revolve the Demand Loan to the Chargor and at any time and from time to time increase or decrease the principal amount of the Demand Loan secured hereunder provided that at no time shall the principal amount of the Demand Loan exceed the sum of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) plus interest and costs thereon as provided above. And the Chargor must repay to the Chargee the whole of the Demand Loan prior to each subsequent advance under the Construction Loan and so on and so forth from time to time and this Charge shall remain valid and binding security and retain absolute priority for the balance of the principal amount owing from time to time up to the amount of FORTY-FIVE MILLION DOLLARS (\$45,000,000.00), together with interest thereon as herein set out, and costs, fees and other amounts thereon as provided in the Charge and at the rate herein set out, notwithstanding such repayment in part or in full until a discharge is delivered by the Chargee to the Chargor;

AND THE CHARGOR acknowledges and agrees that any and all default under the terms and conditions of the Line of Credit Agreement shall constitute concurrent default under this Charge and any and all default under this Charge shall constitute concurrent default under the Line of Credit Agreement, whereupon the unpaid principal balance of Demand Loan together with interest and costs as aforesaid shall, at the option of and upon demand by the Chargee, become immediately due and repayable.

THE CHARGOR acknowledges and agrees that Facility "B" is not a construction loan and any draws pursuant thereto are not intended and shall not constitute construction advances or trust funds and to the extent of the advance proceeds thereof secured hereunder this Charge shall not constitute a "building mortgage", as these terms may be used or defined under any construction or builders lien legislation from time to time.

AND THE CHARGOR acknowledges and agrees that the aggregate total amount on account of principal of the funds advanced and owing under Facility "A" and Facility "B" shall at no time exceed the maximum amount of Facility "A".

Facility "C"

In respect of Facility "C", the lesser from time to time of the principal sum of THREE MILLION, FIVE HUNDRED AND FIFTY THOUSAND, ONE HUNDRED AND FIFTY-EIGHT DOLLARS (\$3,550,158.00) of lawful money of Canada and the aggregate face amount of all Letters of Credit issued on behalf of the Chargor, together with payment to the Chargee on the issuance of each such Letter of Credit and each renewal thereof, of fees in the amount of one and three quarters percent (1.75%) on the face amount thereof, and together with interest at the rate provided in Facility "A" on any amount(s) drawn from time to time on any such Letter(s) of Credit by the holder(s) thereof until full repayment thereof by the Chargor.

PROVIDED ALWAYS that in no event shall the obligations of the Chargee pursuant to such Letters of Credit extend beyond the earlier of the Maturity Date and the date of provision by the Chargee of the final partial discharge of the Lands, the Chargor hereby agreeing that the Chargee's obligations in respect to such Letters of Credit shall be fully paid, released, secured and/or cash collateralized by the Chargor prior to the earlier of such dates.

This Facility "C" is strictly for securing any requirements and outstandings relating to the Taron Warranty issued by the Taron Warranty Corporation and for any requirements of any municipal or regional corporation in conjunction with the development to be secured by this Charge. Any other letters of credit which may from time to time be issued solely at the discretion of the Chargee shall only be issued on a duplicate nature basis and any draws under any Letter(s) of Credit other than those for the purposes of the Taron Warranty Corporation shall result in offsetting reductions in Facility "A" and on completion and repayment of the loan secured by this Charge, any remaining outstanding Letter(s) of Credit shall be secured with equivalent cash deposits to the Chargee.

AND taxes and performance of Statute Labour; and observance and performance of all covenants, provisos and conditions herein contained.

2. COMPOUND INTEREST

AND it is hereby agreed that in case default shall be made in payment of any sum in respect of Facilities "A", "B" and "C" to become due for interest at any time appointed for payment thereof as aforesaid, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the rate aforesaid, and in case the interest and compound interest are not paid in one (1) month from the time of default a rest shall be made, and compound interest at the rate aforesaid shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Lands.

3. CAPITALIZATION OF INTEREST

AND the Chargee shall have the right at its sole option to capitalize any interest owing from time to time and to add same to the principal amount of the loan and to treat it as part thereof and charge interest thereon. Such capitalized interest and interest thereon shall at all times be secured under the security granted by the Chargor to the Chargee pursuant to this loan in first priority in the same manner as accrued interest. The Chargee at its sole option shall have the right to treat such capitalized interest as principal or accrued interest.

B. ADDITIONAL PROVISIONS1. AMENDMENTS TO STANDARD CHARGE TERMS 201010

- (a) The first sentence of Paragraph 33 – Letter of Credit contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

"THE PARTIES to this Charge hereby acknowledge and agree that, in addition to all other amounts advanced and/or secured hereby, this Charge shall stand as good and valid security with respect to any and all letters of credit, letters of guarantee or similar Instruments (collectively the "Letters of Credit") issued by or on behalf of the Chargee for the benefit of or on account of the Chargor and in favour of any other party as may be requested or directed by the Chargor from time to time, and that the total amount of the financial obligations under each Letter of Credit shall be deemed to have been advanced and fully secured under this Charge as of and from the date of issuance of each such Letter of Credit regardless of when the same may be called upon by the holder thereof. "

- (b) The only paragraph in Section 35 – No Further Encumbrances contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

"THE CHARGOR agrees not to enter into, create, incur, assume, suffer or permit to exist any other charge, pledge or other form of financing against the Lands and/or in respect of any chattels or other equipment directly related to the Lands, and not to further encumber same in any manner without the prior written consent of the Chargee, which approval shall be in the sole discretion of the Chargee save and except as follows:

- (a) a mortgage to a bonding company for the purposes of insuring purchaser deposits which shall rank subordinate to this Charge and which shall be subject to the approval of the Chargee or its solicitors. The said mortgage shall be required to enter into a Priorities Agreement in form and contents acceptable to the Chargee prior to registration of the subordinate charge; and
- (b) a equity interest mortgage which shall rank subordinate to this Charge and which shall be subject to the approval of the Chargee or its solicitors. The Chargee of the said mortgage shall be required to enter into a Subordination and Standstill Agreement in form and contents acceptable to the Chargee prior to the registration of such subordinate charge. "

- (c) Section 36 – Additional Events of Default contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

"If the Chargor or any Covenantor dies or commits an act of bankruptcy or becomes insolvent or has a receiver or receiver and manager appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Lands or any part thereof or if any compromise or arrangement with creditors is made by any of them; or,"

- (e) Section 65 – No Prepayments contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

"REPAYMENTS

THE CHARGOR, when not in default hereunder, shall have the privilege to prepay all or any part of the amount outstanding under this Charge prior to the maturity date thereof without notice or bonus."

- (d) Section 66 – No Partial Discharges contained in Standard Charge Terms 201010 is hereby deleted and replaced by the following:

"PARTIAL DISCHARGES

THE CHARGOR AND CHARGEe agree that partial discharge of the Charge will be provided under the following circumstances:

- (a) **PROVIDED THAT** upon registration of a plan of condominium of the Lands in accordance with the plans and specifications approved by the Chargee, and provided that no Event of Default has then occurred, and upon the sale of any condominium unit (the "Unit") to an approved purchaser pursuant to the terms of the Commitment, the Chargee agrees to provide to the Chargor a partial discharge of such Unit, upon fulfillment of the following conditions to the satisfaction of the Chargee:

- (i) compliance with the provisions of the *Planning Act* (Ontario) with respect to such partial discharge;
- (ii) payment of the Chargee's administrative fee of \$150.00 in respect of each discharge document (single or multiples) executed by the Chargee;
- (iii) all fees and expenses of the Chargee's solicitors with respect to the granting of such partial discharges are paid in full prior to the delivery of such partial discharges;
- (iv) payment to the Chargee of any accrued and unpaid interest or other charges then due and owing pursuant to this Charge; and,
- (v) the Chargee receives in respect of such Unit, forthwith after completion of the sale of such Unit, a solicitor's certified trust cheque payable to the Chargee in an amount equal to one hundred percent (100.0%) of the Net Sale Proceeds (as hereafter defined) in respect of such Unit.

"Net Sale Proceeds" in respect of any such Unit means the sale price of such Unit (as previously approved by the Chargee and as specified in the agreement of purchase and sale (the "Purchase Agreement") relating to such Unit), less the aggregate of: (a) all deposits paid by or on behalf of the purchaser of such Unit, provided that same have been utilized by the Chargee for the purpose of satisfying construction costs with respect to the Lands as per the terms of the Commitment, or provided that same have previously been delivered to the Chargee; (b) goods and services taxes exigible thereon pursuant to the *Excise Tax Act* (Canada) and payable by the Chargor pursuant to the terms of the Purchase Agreement; (c) usual and reasonable adjustments credited to the purchaser in the statement of adjustments on closing; (d) reasonable fees and expenses of the Chargor's solicitors with respect to the sale of such Unit (provided such fees and expenses are not in the aggregate in excess of the amount budgeted therefor); and, (e) reasonable real estate commissions with respect to the sale of such Unit (provided such fees and expenses are not in the aggregate in excess of the amount budgeted therefor)."

2. DEVELOPMENT PROVISIONS

PROVIDED THAT the Chargor shall be entitled and is hereby authorized to do any of the following, at any time and without payment to the Chargee and without the same being deemed an act or acts of waste hereunder:

- (a) strictly in accordance with the terms of the Commitment and the plan of development approved by the Chargee, and in accordance with the laws and regulations of all applicable Governmental Bodies (as hereafter defined), to demolish or remove any and all buildings and improvements now situate upon the Lands; and,
- (b) to commence, carry out and complete, in accordance with the laws and regulations of all applicable Governmental Bodies (as hereafter defined), the terms of the Commitment and the plan of development approved by the Chargee, any and all construction works and building operations on the Lands, including without limitation excavation and grading, installation of roads, walkways, utilities, watermains, sewers and other services and all other acts incidental to the development of the Lands.

PROVIDED FURTHER and so long as the Chargor is in all respects in good standing pursuant to this Charge and the Commitment, and subject to the conditions of consent for registration of a plan of condominium as provided above, and provided that the Chargor shall pay all reasonable costs of the Chargee's solicitor reviewing and advising on any of the hereafter noted matters, and subject as hereinafter provided, then the Chargee shall, as soon as reasonably possible, and without further payment by the Chargor on account of principal and/or interest, execute and deliver the following to the Chargor:

- (a) such plans and documents as may be required in order to facilitate the registration of reference plan(s) and/or plans of condominium or subdivision of the Lands, and/or as may be required in order to re-zone the Lands, and in connection therewith the Chargee shall do everything to facilitate same, including the execution of such agreement(s) with the municipality or any municipal authority as may be required for registration or re-zoning as aforesaid;
- (b) such partial discharge(s) or other assurances as may be required in order to convey to any Governmental Body any lands as required for municipal or governmental purposes so long as the Chargor receives no compensation from such Governmental Body, including, without limiting the generality of the foregoing, such lands as may be required for public purposes such as roads, road widenings, walkways, one foot reserves and parks;
- (c) such consents and postponements as may be required for the creation of easements for utilities or municipal purposes, or for easements and rights of way between the Lands and any adjoining properties; and,
- (d) such consents, acknowledgements and documents as may be required by the Chargor for the purpose of enabling the Lands to be brought forward into and governed by the *Land Titles Act* (Ontario) and/or for conversion to absolute parcel status and/or (subject to compliance with the provisions hereof relating thereto) for enabling the Lands to be governed by the *Condominium Act, 1998* (Ontario);

PROVIDED ALWAYS that the Chargee shall not be required to execute or deliver any documentation as aforesaid which may impose any financial obligation upon the Chargee, or which is contrary to the terms of the Charge or the Commitment, or which otherwise adversely or materially impacts on the priority of the Charge or on the value of or the utility of the Lands.

3. **CONFLICTS**

IN THE EVENT of any inconsistencies or conflicts between these Additional Provisions and the Charge Terms, these Additional Provisions shall prevail.

4. **PARI PASSU – CROSS DEFAULT**

REFERENCE is made to a Charge/Mortgage in favour of the Chargee in the principal amount of SIXTY MILLION, ONE HUNDRED AND THREE THOUSAND DOLLARS (\$60,103,000.00) registered on the title to the Lands on February 25, 2010 as Instrument No. YR1445317, as may be amended from time to time (the "Existing Charge").

IT IS ACKNOWLEDGED and agreed that, notwithstanding the order of registration of the Existing Charge and this Charge, the indebtedness secured by the Existing Charge and the indebtedness secured by this Charge (collectively, the "Combined Indebtedness") shall rank *pari passu* as if the Combined Indebtedness was secured under one charge. The said Combined Indebtedness shall at all times and from time to time be fully secured by both the Existing Charge and this Charge. Default under the Existing Charge shall be deemed to be default under this Charge, and default under this Charge shall be deemed to be default under the Existing Charge. In the event of default under either the Existing Charge or this Charge, the Chargee shall be entitled to exercise any and all remedies available to it pursuant to the Existing Charge and this Charge, or either of them, at its sole discretion.

5. **PRIORITIES, POSTPONEMENTS, SUBORDINATIONS AND DISCHARGES**

THE CHARGOR hereby acknowledges and agrees that the following priorities shall govern with respect to the Existing Charge and this Charge respectively, namely;

- (a) The Existing Charge, and all advances thereunder from time to time, up to the maximum principal amount advanced by the Chargee under the Existing Charge, but not exceeding the sum of SIXTY-MILLION, ONE HUNDRED AND THREE THOUSAND DOLLARS (\$60,103,000.00), together with interest thereon and costs of enforcement thereof, and all other amounts owing to the Chargee pursuant to the Existing Charge shall constitute a first charge and security interest in respect of the Lands, ranking *pari-passu* in all respects with this Charge, until a legal severance (whether by virtue of declaration of a Plan of Condominium with respect to the lands and buildings intended to be secured by the Existing Charge pursuant to the Commitment as amended, issued for the loan secured by the Existing Charge, (herein called the "Initial Phase Lands") or the appropriate consents pursuant to the provisions of the Planning Act, in each instance allowing for independent conveyance or charge of the Initial Phase Lands (herein called the "Severance") has been obtained by the Chargor or anyone claiming through or on the Chargor's behalf;
- (b) Following the Severance, the Existing Charge and all advances thereunder from time to time, shall constitute a first charge and security interest in respect of the Initial Phase Lands only;
- (c) Ninety (90) days following the Severance, the Chargee shall forthwith register a full discharge of the Existing Charge as against the Lands less the Initial Phase Lands (which remaining portion of the Lands is herein referred to as the "Subsequent Phase Lands") without any requirement for any payment on account of the Existing Charge and regardless of the status of the Existing Charge;
- (d) This Charge, and all advances thereunder from time to time, up to the maximum principal amount advanced thereunder, together with interest thereon and costs of enforcement thereof and all other amounts owing in respect of this Charge shall constitute a first charge and security interest in respect of the Lands, ranking *pari passu* with the Existing Charge, until the Severance has been obtained by the Chargor or anyone claiming through or on the Chargor's behalf;
- (e) Following the Severance, this Charge, and all advances thereunder from time to time, shall constitute a first charge and security interest in respect of the Subsequent Phase Lands only; and
- (f) Ninety (90) days following the Severance, the Chargee shall forthwith register a full discharge of this Charge as against the Initial Phase Lands without any requirement for any payment on account of this Charge and regardless of the status of this Charge.

IN THE EVENT of an occurrence of a default from time to time, prior to the Severance, by the Chargor with respect to either this Charge and/or the Existing Charge as the case may be, which results in enforcement proceedings being taken in respect thereof, the proceeds of sale resulting from such enforcement proceedings shall in every event be distributed as follows: (a) firstly, in repayment in full on a *pari passu* basis of all governmental creditors with a priority or a super-priority in respect of the Initial Phase Lands and the Subsequent Phase Lands; (b) secondly, to the Chargee on a *pari passu* basis on account of this Charge and the Existing Charge until repayment in full of the Existing Charge and this Charge;

6. **CROSS COLLATERAL PROVISIONS**

THIS CHARGE is given to secure the same indebtedness secured by a certain Charge/Mortgage of Land registered on December 23, 2011 in the Land Registry Office for the Land Titles Division of York (No 65) as Instrument No. YR1763873 (hereinafter called the "Additional Charge"). The Chargor covenants and agrees that any and all payment or default under this Charge shall constitute concurrent payment or default under the Additional Charge, and likewise, any and all payment or default under the Additional Charge shall constitute concurrent payment or default under this Charge. The said indebtedness shall at all times and from time to time be fully secured by both this Charge and the Additional Charge and, in the event of default under either this Charge or the Additional Charge, the Chargee shall be entitled to exercise any and all remedies available to it pursuant to this Charge and the Additional Charge, or either of them, and with respect to any or all of the lands secured by this Charge and the Additional Charge.

TAB H

GENERAL SECURITY AGREEMENT
(all property)

THIS AGREEMENT made as of the day of September, 2014,

BY:

**JADE-KENNEDY DEVELOPMENT CORPORATION
JADE-KENNEDY (RESIDENTIAL) DEVELOPMENT CORPORATION
MADY-JADE CORPORATION**

hereinafter collectively called the "Debtor"

IN FAVOUR OF:

LAURENTIAN BANK OF CANADA

hereinafter called the "Secured Party"

IN CONSIDERATION of the Secured Party extending credit and making or agreeing to make one or more loans and advances thereunder to the Debtor and for other good and valuable consideration, the Debtor covenants with the Secured Party as follows:

ARTICLE I - DEFINITIONS

1.01 **Definitions:** Capitalized terms used in this Agreement that are not defined in this Section have the respective meanings ascribed thereto in the Act and all other capitalized terms used in this Agreement have the respective meanings ascribed thereto in this Section:

- (a) "Act" means the *Personal Property Security Act* (Ontario);
- (b) "Collateral" means all Personal Property (including, without limitation, each Account, Chattel Paper, Document of Title, Equipment, Instrument, Intangible, Inventory, Money, Security and Goods) that is now or hereafter owned or acquired by or on behalf of the Debtor or in respect of which the Debtor now or hereafter has any rights (other than Consumer Goods) including, without limitation, all increases, additions, substitutions, repairs, renewals, replacements, Accessions, accretions and improvements to any such Personal Property and all Proceeds and other amounts derived directly or indirectly from any dealings with any such Personal Property;
- (c) "Expenses" means all costs, fees and expenses (including legal fees and disbursements on a full indemnity basis) incurred by or on behalf of the Secured Party in connection with or arising out of or from any one or more of the following:
 - (i) any act done or taken by the Secured Party or any Receiver, or any proceeding instituted by the Secured Party, the Debtor or any other Person in connection with or in any way relating to any one or more of the Act, this Agreement or any part hereof, the preservation, protection, enforcement or realization of the Collateral or the Security Interest or both, the recovery of the indebtedness and responding to enquiries regarding the scope of the Security Interest perfected by the registration of a Financing Statement under the Act;
 - (ii) the remuneration of the Receiver, if any; and,
 - (iii) all amounts incurred or paid by or on behalf of the Secured Party pursuant to Section 5.03 hereof;
- (d) "Event of Default" or "Events of Default" has the meaning ascribed in Section 4.01 hereunder;
- (e) "Indebtedness" means all present and future debts and liabilities due or to become due, absolute or contingent, direct or indirect, now existing or hereafter arising,

owing by the Debtor to the Secured Party, whether pursuant to or under the Letter of Commitment, the Loan Documents or otherwise and includes any extensions, renewals or replacements thereof and includes the Expenses;

- (f) "Letter of Commitment" means a certain commitment letter dated September 12, 2014, issued by the Secured Party in favour of Jade-Kennedy Development Corporation, as same may be amended from time to time;
- (g) "Loan Documents" means all agreements, instruments and other documents made or assigned by the Debtor in favour of the Secured Party in connection with the loan transaction contemplated in the Letter of Commitment, as same may be amended, supplemented or replaced from time to time;
- (h) "Person" includes an individual, sole proprietorship, partnership, joint venture, syndicate, association, trust, body corporate, a natural person in his capacity as trustee, personal representative or other legal representative, the Crown or any agency or instrumentality thereof, and/or any other entity recognized by law;
- (i) "Receiver" means a receiver or a receiver and manager or any other Person (including the Secured Party) appointed by the Secured Party or by any court of competent jurisdiction for all or any part of the assets of the Debtor or for all or any part of the Collateral, and includes the agents, servants and employees of such Receiver; and,
- (j) "Security Interest" means the assignment, transfer, mortgage, charge and security interest provided for in Section 2.01 hereof and "security interest" has the meaning ascribed thereto in the Act.

ARTICLE II - GRANT OF SECURITY INTEREST AND ATTACHMENT

2.01 **Security Interest:** As continuing security for the payment of the Indebtedness and the performance, fulfilment and satisfaction of all covenants, obligations and conditions on the part of the Debtor set out herein, in the Letter of Commitment and in the Loan Documents, the Debtor:

- (a) assigns, transfers, mortgages and charges to and in favour of the Secured Party all of the Debtor's rights, title and interest in and to the Collateral; and,
- (b) grants to and in favour of the Secured Party a security interest in the Collateral;

as and by way of a fixed charge.

2.02 **Exclusion of Last Day of Leasehold Interest from Security Interest:** The Security Interest referred to in Section 2.01 hereof shall not extend to or apply to the last day of the term of any lease or agreement therefor that is now or may hereafter be held by the Debtor; provided, however, if the Security Interest becomes enforceable, the Debtor shall thereafter stand possessed of the last day of each such lease or agreement therefor and shall hold the same in trust for, and shall, upon receipt of a written request to that effect from the Secured Party assign the same to, any Person who acquires the term of any such lease or any agreement therefor in the course of any enforcement of the Security Interest or in the course of any realization upon the Collateral or any part thereof.

2.03 **Attachment:** The Debtor and Secured Party confirm that they have not postponed or agreed to postpone the time for attachment of the Security Interest and that the Debtor has received Value.

2.04 **Amalgamation:** The Debtor acknowledges and agrees that in the event that it amalgamates with any other company or companies it is the intention of the parties hereto that the term Debtor when used herein shall apply to each of the amalgamating companies and to the amalgamated company, such that the Security Interest granted hereby:

- (a) shall extend to the Collateral owned by each of the amalgamated companies and the amalgamated company at the time of amalgamation and to all Collateral thereafter owned or acquired by the amalgamated company; and,
- (b) shall secure the Indebtedness of each of the amalgamating companies and the amalgamated company to the Secured Party at the time of amalgamation and any Indebtedness of the amalgamated company thereafter arising.

And for greater particularity, the Security Interest shall attach to the Collateral owned by each company amalgamating with the Debtor, and by the amalgamated company, at the time of amalgamation, and shall attach to any Collateral thereafter owned or acquired.

ARTICLE III - REPRESENTATIONS, WARRANTIES AND COVENANTS

3.01 **Representations and Warranties:** The Debtor represents and warrants to the Secured Party, and so long as any of the indebtedness remains outstanding shall be deemed to continuously represent and warrant to the Secured Party, as follows:

- (a) the Collateral is owned by the Debtor with good and marketable title thereto, free and clear of any assignments, executions, mortgages, charges, hypothecations, pledges, security interests, liens, demands, adverse claims and any other encumbrances whatsoever;
- (b) the Debtor has the full power, capacity and authority to execute and deliver this Agreement and to observe and perform all of the Debtor's obligations thereunder;
- (c) if the Debtor is a corporation or partnership, the Debtor is duly constituted, validly existing and in good standing under the laws of its governing jurisdiction; and,
- (d) the name of the Debtor as set out on the first page of this Agreement is the full and correct legal name of the Debtor.

3.02 **Covenants:** The Debtor covenants and agrees with the Secured Party, and so long as any of the indebtedness remains outstanding shall be deemed to continuously covenant and agree with the Secured Party, as follows:

- (a) if applicable, the Debtor will at all times maintain its existence as a corporation or a partnership, as the case may be;
- (b) the Debtor will diligently maintain and operate the Collateral and shall conduct its operations in a reasonable and prudent manner so as to maintain, preserve and protect the Collateral;
- (c) the Debtor will pay all taxes, rates, levies, government fees and dues levied, assessed or imposed in respect of the Collateral or any part thereof, as and when the same become due and payable, and shall forthwith upon request by the Secured Party deliver such evidence as may satisfy the Secured Party that such taxes, rates, levies, fees and dues have been paid;
- (d) the Debtor will at all times repair and keep in good order and condition any part or parts of the Collateral that constitutes tangible personal property, and renew and replace all and any of the same which may become unrepairable or destroyed;
- (e) the Debtor will insure, at its own expense, on a replacement cost basis, all items of Collateral for which insurance coverage is purchasable, at all times during which any indebtedness exists, with insurers and pursuant to policies approved by the Secured Party, for such risks and perils as a reasonable owner of similar Collateral would consider prudent and for such other insurable risks and perils as the Secured Party may from time to time consider advisable or desirable and in respect of which insurance coverage may be available. All cancellation clauses in such policies are to provide for at least thirty (30) days' prior notice of such cancellation to the Secured Party;
- (f) the Debtor will deliver to the Secured Party original or certified true copies of all policies of insurance required to be maintained by the Debtor pursuant hereto and the Debtor will, at least thirty (30) days prior to the expiry of any such insurance policy, deliver to the Secured Party a renewal receipt, binder or new policy replacing such expiring insurance policy, or otherwise satisfy the Secured Party that such insurance has been renewed;
- (g) the Debtor will cause all proceeds payable under all policies of insurance required to be maintained by the Debtor hereunder to be made payable to the Secured Party, as its interest may appear, and will otherwise deal with such policies in such manner so as to enable all proceeds payable thereunder to be collected by the

Secured Party from the Insurer. The Secured Party may elect to have such insurance money applied in the reinstatement of the relevant Collateral or towards repayment of the Indebtedness whether then due or not;

- (h) the Debtor will not create, grant, assume or otherwise permit to exist any assignment, execution, mortgage, charge, hypothec, pledge, lien, security interest or other encumbrance upon the Collateral or any part thereof or the Debtor's interest therein that ranks or is capable of being enforced in priority to, or *pari passu* with, or subsequent to, the Security Interest;
- (i) the Debtor will from time to time at the request of the Secured Party and at the expense of the Debtor, make and do all such acts and things and execute and deliver all such Instruments, security agreements and other writings and assurances as may be necessary or desirable or recommended by counsel to the Secured Party with respect to this Agreement or the Collateral or in order to perfect, keep perfected, maintain and preserve the Security Interest;
- (j) the Debtor will pay or reimburse the Secured Party upon demand for all Expenses together with interest thereon from the date of payment by the Secured Party until paid in full to the Secured Party by the Debtor at the highest rate of interest payable under the Loan Documents, calculated and compounded monthly before and after demand, maturity, default and judgment, together with interest on overdue interest at the same rate;
- (k) the Debtor will not transfer, convey, sell, sublease, assign, otherwise alienate the Collateral or any part thereof;
- (l) the Debtor will not change the location of the Collateral or any part thereof;
- (m) the Debtor will not amalgamate, continue, restructure or dissolve;
- (n) the Debtor will not permit or suffer by operation of law any change in control or beneficial ownership of the Debtor;
- (o) the Debtor will not, except upon thirty (30) days prior written notice to the Secured Party:
 - (i) change its legal name; and/or,
 - (ii) change its registered head office;
- (p) In the event of any change of the Debtor's name or in the location of the Collateral, the Debtor will pay to the Secured Party forthwith all legal and other costs associated with amending all registrations related to the Loan Documents and of providing any other assurances to the Secured Party as may be reasonably required in the circumstances;
- (q) the Secured Party shall have access to all lands and premises on which any of the Collateral is located; and,
- (r) the Debtor will provide to the Secured Party all information reasonably requested by the Secured Party with respect to the Collateral and the operation of any lands, premises and undertaking of the Debtor including, but not limited to, copies of all leases and rent rolls, and all financial and computer records with respect to such information and the Collateral.

ARTICLE IV - EVENTS OF DEFAULT AND REMEDIES

4.01 **Events of Default:** The Debtor shall be in default hereunder upon the occurrence of any one or more of the following events (which shall collectively be called "Events of Default" and individually an "Event of Default"):

- (a) If the Debtor is in default under or pursuant to, or otherwise fails to perform, fulfill or satisfy any covenant, obligation or condition set out in, or upon the occurrence of an event described as an "Event of Default" or a "Default" in, this Agreement, the Letter of Commitment or any of the Loan Documents; and,

- (b) If the Debtor or any guarantor or covenantor of the Indebtedness or any part thereof dies or commits an act of bankruptcy or becomes insolvent or has a Receiver appointed for it or over any of its assets, or if any creditor takes possession of any of its assets, or if any execution, distress or other like process is levied or enforced upon the Collateral or any part thereof, or if any compromise or arrangement with creditors is made by any of them.

4.02 **Remedies Upon Default:** Upon the occurrence of an Event of Default the full amount of the Indebtedness shall, at the option of the Secured Party, become due and payable whereupon the Security Interest shall immediately be enforceable by the Secured Party, and the Secured Party shall have, in addition to all other rights, powers and remedies available at law and in equity, the following rights, powers and remedies:

- (a) the Secured Party may immediately sue for the Indebtedness;
- (b) the Secured Party may appoint and reappoint by instrument in writing, or institute proceedings in any court of competent jurisdiction for the appointment or reappointment of, any Person (including the Secured Party) to be a Receiver of all or any part of the Collateral. The Secured Party may remove or replace the Receiver from time to time, and appoint another Receiver in his stead or make application to a court of competent jurisdiction to do so. Subject to the provisions of the instrument or court order appointing the Receiver, the Receiver so appointed or replaced shall have, possess and may exercise all or any part of the rights, powers and remedies of the Secured Party (whether conferred upon the Secured Party by this Agreement or otherwise). For greater certainty, where the Secured Party is referred to in this Agreement, the term shall, where the context permits, include the Receiver so appointed or replaced and the officers, employees, servants or agents of the Secured Party and the Receiver;
- (c) the Secured Party may, without notice, take such steps as it considers necessary or desirable to obtain possession of all or any part of the Collateral by any method permitted by law, and to that end the Debtor agrees:
- (i) to deliver possession of the Collateral to the Secured Party forthwith upon its receipt of a written or verbal demand therefor, at such place or places specified by the demand; and,
- (ii) that the Secured Party may, at any time during the day or night, by any lawful means, enter upon all lands and premises upon which any of the Collateral may be found for the purpose of rendering unusable any part of the Collateral which constitutes equipment or for the purpose of taking possession of and removing the Collateral or any part thereof or both;
- (d) subject to the Act, the Secured Party may without notice, advertisement, demand for payment or any other formality (all of which are hereby waived) do any act or thing to preserve the Collateral or its value, or seize, collect, realize upon, lease, dispose of, release to third parties, sell by public or private sale or any other mode of disposition as the Secured Party may consider advisable or otherwise deal with the Collateral or any part thereof in such manner, for such consideration, upon such terms and conditions and at such time or times as may, in the absolute discretion of the Secured Party, seem to it necessary or advisable;
- (e) subject to the Act, the Secured Party may without notice, retain the Collateral or any part thereof and postpone the sale or any other disposition or dealing with the Collateral or any part thereof for such period as may, in the absolute discretion of the Secured Party, seem to it necessary or advisable;
- (f) subject to the Act, the Secured Party may without notice, elect to retain all or any part of the Collateral in satisfaction of the Indebtedness or any part thereof;
- (g) subject to the Act, the Secured Party may purchase all or any part of the Collateral at any public or private sale, auction, tender or by way of any other mode of disposition;
- (h) the Secured Party may borrow money on the security of the Collateral and create security interests in the Collateral, whether or not in priority to the Security Interest, which, in the absolute discretion of the Secured Party, may impair the Debtor's right to redeem the Collateral;

- (i) the Secured Party may carry on or concur in the carrying on of all or any part of the business of the Debtor and may enter upon, occupy and use all or any of the lands, premises and undertaking occupied or used by the Debtor, or in which the Collateral or any part thereof is situate for such time as the Secured Party sees fit, free of charge, to the exclusion of the Debtor; and,
- (j) the Secured Party may pay any indebtedness of the Debtor, post any security or otherwise deal with any other creditors of the Debtor in order to obtain the discharge of any mortgage, charge, hypothecation, pledge, security interest, lien, claim or other encumbrance that may exist against the Collateral or any part thereof.

4.03 **Receiver as Agent:** The Receiver shall be the agent of the Debtor for all purposes except possession of the Collateral only, which possession shall be on behalf of and as agent of the Secured Party and not the Debtor.

4.04 **Risk of Loss:** Where all or any part of the Collateral is in the possession of the Secured Party or the Receiver the risk of loss or damage, whether caused by the negligence of the Secured Party, the Receiver or otherwise, shall be the sole responsibility and obligation of the Debtor.

ARTICLE V - GENERAL CONTRACT PROVISIONS

5.01 **Secured Party Not Liable:** Neither the Secured Party nor the Receiver shall be bound to do any one or more of the following:

- (a) give any notice;
- (b) make or do any repair, processing or preparation for disposition of the Collateral (whether commercially reasonable or not);
- (c) use reasonable care in the custody or preservation of any of the Collateral in its possession;
- (d) keep the Collateral identifiable;
- (e) proceed in a commercially reasonable manner in the collection from debtors of the Debtor;
- (f) exercise any rights, powers and remedies whatsoever including, without limitation, seize, collect, realize upon, lease, sell or otherwise dispose of, borrow money on the security of, release to third parties, obtain possession of, obtain payment for, maintain or preserve or protect, the Collateral or any part thereof or its value; and
- (g) institute proceedings for the purpose of seizing, collecting, realizing upon, disposing of or obtaining possession of or payment for, the Collateral or any part thereof or for the purpose of preserving any rights of the Secured Party, the Debtor or any other Person in respect of same;

nor shall the Secured Party or the Receiver be liable or accountable for doing or for failing to do any one or more of the foregoing. Notwithstanding Article IV hereof, the Debtor shall be liable for all actions, causes of action, proceedings, debts, demands, claims, losses, damages and other liabilities incurred or suffered by the Debtor, the Secured Party or the Receiver by reason of or on account of any act or failure to act of the Receiver.

5.02 **Application of Funds:** All amounts realized from the Collateral upon the enforcement of the Security Interest shall be applied by the Secured Party or the Receiver firstly, to the payment of Expenses, secondly, to the payment of such part of the Indebtedness as constitutes interest, and thirdly, to the payment of the balance of the Indebtedness; and any deficiency shall be and remain payable by the Debtor to the Secured Party. If any surplus remains after the payments itemized herein, such surplus shall be applied in the manner provided for in the Act. Notwithstanding the foregoing, the Secured Party reserves the right to interplead or make any appropriate application pursuant to the *Trustee Act* (Ontario).

5.03 **Performance by Secured Party:** If the Debtor fails to perform, fulfill or satisfy any covenant, obligation or condition herein set out including, without limitation, the payment of

money, the Secured Party may, in its absolute discretion, but without being bound to do so, perform any such covenant, obligation or condition capable of being performed by the Secured Party. No such performance or payment shall relieve the Debtor from any default under this Agreement or any consequence of such default.

5.04 **Rights, Powers and Remedies:** Each right, power and remedy of the Secured Party provided for in this Agreement or available at law or in equity may be exercised separately from or in combination with, and is in addition to and not in substitution for, any other right, power and remedy of the Secured Party however created. Without limiting the generality of the foregoing, the taking of judgment or judgments by the Secured Party shall not operate as a merger or affect the right of the Secured Party to interest as provided herein.

5.05 **Waiver:** No consent or waiver, express or implied, by the Secured Party to or of any breach or default by the Debtor in the performance of its obligations hereunder shall be deemed or construed to be a consent to or a waiver of any other breach or default in the performance of the Debtor's obligations hereunder. Failure on the part of the Secured Party to complain of any act or failure to act of the Debtor or to declare the Debtor in default, irrespective of how long such failure continues, shall not constitute a waiver by the Secured Party of its rights hereunder.

5.06 **Dealings with Persons:** The Secured Party may grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, release any part of the Collateral to third parties and otherwise deal with the Collateral, the Debtor, debtors of the Debtor, guarantors, sureties and others, as the Secured Party may see fit, without prejudice to the Secured Party's rights, powers and remedies whatsoever.

5.07 **Notices:** Any notice or demand which may or is required to be given pursuant to this Agreement shall be in writing and shall be sufficiently given or made if served personally or by facsimile upon the party for whom it is intended, or (except in the case of an actual or pending disruption of postal service) mailed by registered mail, in the case of the Debtor, addressed to it at any address for service provided by the Debtor to the Secured Party under any of the Loan Documents and in the case of the Secured Party, addressed to it at the address set out in the Letter of Commitment. The date of receipt of such notice or demand, if served personally or by facsimile, shall be deemed to be the date of the delivery thereof, or if mailed as aforesaid, the fourth business day following the date of mailing. For the purposes hereof, personal service on the Debtor shall be effectively given by delivery to any officer, director or employee of the Debtor. The Secured Party or the Debtor may, from time to time, change its address or stipulate another address from the address described in this Agreement by giving notice in the manner provided in this Section and in respect of the Debtor provided that it has complied with the terms of Subsection 3.02 (o) hereof.

5.08 **Successors and Assigns:** This Agreement and each of the covenants, warranties and representations herein set out shall enure to the benefit of the Secured Party and the Secured Party's successors and assigns and shall be binding the Debtor and the Debtor's heirs, personal representatives, successors and assigns. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation, any trustee in bankruptcy and, where any party is a partnership, any new partnership resulting from the admission of new partners or any other change in the composition of such partnership, including, without limiting the generality of the foregoing, the death or resignation of any or all of the partners.

5.09 **Survival:** All covenants, undertakings, agreements, representations and warranties made by the Debtor in this Agreement shall survive the execution and delivery of this Agreement and shall continue in full force and effect until the indebtedness is paid in full. All representations and warranties made by the Debtor herein shall be deemed to have been relied upon by the Secured Party.

5.10 **Entire Agreement:** This Agreement constitutes the entire agreement between the Debtor and the Secured Party relating to the Security Interest and may not be amended in any manner except by written instrument signed by both of them.

5.11 **Applicable Law:** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and the parties hereto irrevocably attorn to the laws of the courts of this Province sitting at Toronto, Ontario.

5.12 **Legislation References:** Any references in this Agreement to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body shall be construed as a reference thereto as amended or re enacted from time to time or as a reference to any successor thereto.

5.13 **Time of the Essence:** Time is and shall continue to be of the essence of this Agreement.

5.14 **Headings:** The insertion of headings in this Agreement is for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.

5.15 **Number and Gender:** In this Agreement, words importing the singular number shall include the plural and vice versa, and words importing the use of any gender shall include the masculine, feminine and neuter genders.

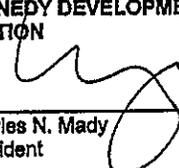
5.16 **Joint and Several:** If two or more Persons have executed this Agreement as Debtor, all covenants and obligations of such Persons hereunder shall be joint and several covenants and obligations.

5.17 **Acknowledgement:** The Debtor acknowledges receipt of a duplicate executed copy of this Agreement.

5.18 **Counterparts:** This Agreement may be executed in counterparts and all counterparts so executed will constitute one Agreement binding on the undersigned effective on execution by all of them.

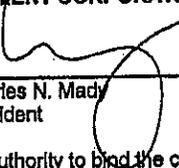
IN WITNESS WHEREOF the undersigned has/have executed this Agreement as of the date first above written.

JADE-KENNEDY DEVELOPMENT CORPORATION

Per: 
Name: Charles N. Mady
Title: President

I have the authority to bind the corporation.

JADE-KENNEDY (RESIDENTIAL) DEVELOPMENT CORPORATION

Per: 
Name: Charles N. Mady
Title: President

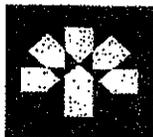
I have the authority to bind the corporation.

MADY-JADE CORPORATION

Per: 
Name: David A. Mady
Title: President

I have the authority to bind the corporation.

TAB I



**LAURENTIAN
BANK**

SPECIFIC SECURITY AGREEMENT
(Deposits with the Bank)

TO Laurentian Bank of Canada

FOR VALUABLE CONSIDERATION, receipt whereof is hereby acknowledged, the undersigned hereby agrees with Laurentian Bank of Canada (hereinafter called the "Bank") as follows concerning the moneys or amounts now or at any time and from time to time hereafter on deposit (hereinafter called the "Collateral Deposit(s)") in the account(s) or evidenced by the instrument(s) maintained in the name of the undersigned at the Bank's branch at :

130 ADELAIDE STREET WEST, SUITE 300, TORONTO, ONTARIO, M5H 3P5

(Insert Branch address)

1 The Bank is hereby authorized and shall be entitled to retain and hold the said moneys or amounts on deposit in the Collateral Deposit(s), together with any and all additions and accretions thereto, as general and continuing collateral security for the payment and fulfillment of all debts, liabilities and obligations, present or future, direct or indirect, absolute or contingent, matured or not, of the undersigned to the Bank whether arising within or outside Canada and whether arising from agreement or dealings between the Bank and the undersigned or from any agreement or dealings with any third person by which the Bank may be or become in any manner whatsoever a creditor of the undersigned or however otherwise incurred or arising, and whether the undersigned be bound alone or with another or others and whether as principal or surety (such debts, liabilities and obligations being hereinafter called the "Liabilities"), including without in any way limiting or restricting the generality of the foregoing, all debts, liabilities and obligations of the undersigned to the Bank arising out of or in respect of (a) any loans or advances heretofore or hereafter made by the Bank, (b) any letter of credit heretofore or hereafter issued by the Bank, and (c) any agreement or instrument or any endorsement thereon (hereinafter called a "Guarantee") heretofore or hereafter entered into by the undersigned whereby the undersigned guarantees the payment or fulfillment of debts or obligations of any other party (each and every such other party being hereinafter called a "customer") to the Bank.

2. Whenever and so long as any Liabilities exist, the Bank will not be indebted or liable to the undersigned in respect of the moneys or amounts now or hereafter on deposit in the Collateral Deposit(s), and the undersigned shall have no right to withdraw any such moneys or amounts now or hereafter on deposit in the Collateral Deposit(s) or to draw any cheques or drafts or other orders for the payment of money to be charged against the Collateral Deposit(s), or to assign, transfer or otherwise deal with such moneys or amounts now or hereafter on deposit in the Collateral Deposit(s), or any part thereof.

3. If the undersigned shall fail to pay or satisfy the Liabilities or any part thereof when due, or if a writ of execution or a garnishment or any similar or analogous writ, process or proceeding should be issued against or in respect of the undersigned, or if the undersigned should commit or threaten to commit any act of bankruptcy or make any assignment for the benefit of creditors, or if a receiver or other person with like powers should be appointed in respect of the undersigned or if an encumbrancer should take possession of any of the properties or assets of the undersigned, then upon the happening of any such event (a) all the Liabilities shall thereupon be and become immediately due and payable, (b) the undersigned shall thereupon be and become directly indebted and liable to the Bank as a principal debtor in respect of all liabilities and obligations then existing or thereafter arising under or by virtue of each and every Guarantee, and (c) the Bank shall be entitled as and when it thinks fit and without prior notice to the undersigned, and is hereby irrevocably authorized and empowered, to immediately apply all or any portion or portions of the moneys or amounts on deposit in the Collateral Deposit(s) against and in reduction or extinction of all or any part or parts of the Liabilities, whether or not the Collateral Deposit(s) are subject to withdrawal on demand, on notice or on a future, fixed maturity date, all as the Bank may see fit, and to debit the Collateral Deposit(s) accordingly; provided that if the Liabilities and the moneys or amounts on deposit in the Collateral Deposit(s) are not in equal amounts, then the greater shall be extinguished only to the extent of the lesser and the excess shall remain owing and payable.

4. The Bank may grant time, renewals, extensions, indulgences, releases and discharges to, take securities (which word as used herein includes other Guarantees) from and give the same and any or all existing securities up to, abstain from taking securities from or from perfecting securities of, cease or refrain from giving credit or making loans or advances to, accept compositions from and otherwise deal with any customer or other party and with all securities as the Bank may see fit, and may apply all moneys at any time received from any customer or other party or from securities upon such part of the debts or liabilities of such customer or other party to the Bank as the Bank deems best and change any such application in whole or in part from time to time as the Bank may see fit, the whole without in any way limiting or lessening the rights and powers of the Bank to hold and deal with the said moneys or amounts now and hereafter on deposit in the Collateral Deposit(s) in the manner provided for herein.

5. No loss of or in respect of any securities received by the Bank from any customer or other party, whether occasioned by the fault of the Bank or otherwise, shall in any way limit or lessen the rights and powers of the Bank to hold and deal with the moneys or amounts now and hereafter on deposit in the Collateral Deposit(s) in the manner provided for herein.

6. The Bank shall not be bound to exercise any of its rights or remedies against any customer or other party or in respect of any securities that it may at any time hold before being entitled to appropriate and apply all or any portion or portions of the moneys or amounts now or hereafter on deposit in the Collateral Deposit(s) for the purpose and in the manner provided for herein.

7. In the event that at any time or from time to time the moneys or amounts on deposit in the Collateral Deposit(s) are in a currency different from the currency of any of the Liabilities, then for the purposes of this

agreement the rate of exchange between the currencies shall be the relative rate of exchange of the Bank in effect on the date of conversion.

8 So long as the moneys or amounts on deposit are held under this agreement and not applied in payment of the Liabilities the moneys or amounts on deposit may bear interest at a rate per annum agreed to between the Bank and the undersigned in the same currency as the moneys or amounts on deposit. Said interest may be held by the Bank as collateral security. The undersigned acknowledges that, in the case of a Collateral Deposit established for a fixed term, the application by the Bank of the moneys or amounts on deposit in payment of the Liabilities before the maturity of the Collateral Deposit may result in loss of interest on such Collateral Deposit.

9 This agreement shall be a continuing agreement and shall have effect whenever and so often as any Liabilities exist.

10 This agreement shall be governed by and construed in accordance with the laws of the province of Canada in which the Collateral Deposit(s) is located.

11 This agreement shall extend to and enure to the benefit of the Bank and its successors and assigns, and shall be binding upon the undersigned and the heirs, executors, administrators, legal representatives, successors and assigns of the undersigned and each of them.

IN WITNESS WHEREOF the undersigned has hereunto duly executed this agreement the 3/4 day of October.

For use by individual customers

 Witness signature
 Print Name: _____
 Address: _____

 Customer signature
 Print Name: _____
 Address: _____

 Witness signature
 Print Name: _____
 Address: _____

 Customer signature
 Print Name: _____
 Address: _____

For use by corporate customers

Jade-Kennedy Development Corporation
 Name of Corporation
 Address: 100-8791 Woodbine Avenue, Markham, ON L3R 0P4

 Per: *[Signature]* c/s
 Name: **Chris Kallio**
 Title: **VP**

 Per: _____
 Name: _____
 Title: _____

We have authority to bind the Corporation.

TAB J

CITATION: Jade-Kennedy Development Corporation (Re), 2016 ONSC 7125
COURT FILE NO.: CV-15-10882-00CL
DATE: 20161206

SUPERIOR COURT OF JUSTICE - ONTARIO

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

BEFORE: Mr. Justice H.J. Wilton-Siegel

COUNSEL: *Sam Rappos*, for Collins Borrow Toronto Limited, Trustee

Asim Iqbal and Deborah Palter, for the Laurentian Bank of Canada, Mortgagee

R.B. Moldaver, Q.C., for Am-Stat Corporation, Mortgagee

C. Mills, for Marshall Zehr Group Inc., Mortgagee

Kevin Sherkin and Jeremy Sacks, for Dircam, Procan and Great Pyramid, Lien Claimants

Christian Piersanti, for Guest Tile Inc., Lien Claimant

Adam Grossi, for Imperial Kitchens, Frenal Kitchens, Sreen Painting, 2050491 Ontario, Global Precast, Lien Claimants

HEARD: October 7 and 11, 2016

ENDORSEMENT

[1] The purpose of this proceeding is to determine the relative priorities of the lien claimants and mortgagees asserting interests in the lands of Jade-Kennedy Development Corporation (the "Borrower").

Background

[2] The Borrower was incorporated for the purpose of owning and developing a condominium project referred to as the "South Unionville Square Project" (the "Project").

[3] The Project was comprised of two completed phases and a further development on lands to the south of the Project which was not completed.

- Page 2 -

[4] Phase I of the Project consisted of residential townhomes and a commercial condominium. Phase II was built on adjacent, but separate, lands and consisted of a residential condominium and a commercial condominium (the "Phase II Commercial Project"). As mentioned, a further development was planned for certain lands located across the road to the south of the lands upon which Phase I and Phase II were constructed (the "Vacant Lands").

[5] Collins Barrow Toronto Limited (the "Trustee") was appointed trustee pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30 (the "CLA") pursuant to an order of Pattillo J. dated February 11, 2015.

[6] The Trustee obtained an order of the Court dated June 30, 2016 (the "Procedure Order") establishing a summary procedure for the determination of the priority, if any, of the claims of eighteen construction lien claimants (herein, collectively, the "Lien Claimants"). The procedure was intended to determine the Lien Claimants' priority relative to the claims of the Laurentian Mortgage and the Am-Stat Mortgage (in each case, as defined below) regarding amounts received by the Trustee on the sale of the remaining interests of the Borrower in the Project in excess of the ten percent (10%) holdback deficiency under the CLA.

[7] In paragraphs 2 and 3, the Procedure Order provided, among other things, for the following actions by parties claiming an interest in the Project:

2. ...

(a) on or before July 11, 2016, the [Laurentian] Bank shall serve an affidavit (the "Bank Affidavit") from a representative of the Bank (the "Bank Representative") addressing, among others, whether the Bank advanced any funds to [the Borrower] after the Bank had received a written notice of lien;

(b) any Lien Claimant claiming entitlement to the [proceeds of the sale of the lands and premises owned by Borrower] by asserting priority over the Bank's mortgage and/or the Am-Stat mortgage (a "Disputing Lien Claimant") for an amount in excess of the basic ten per cent (10%) holdback (the "Basic Holdback") shall, on or before August 3, 2016 (the "Bar Date"), serve a responding affidavit describing with sufficient particularity and supporting documentation, the factual and legal basis upon which the lien claimant asserts such priority over the Bank's mortgage and/or AmStat's mortgage (the "Responding Affidavit"); ...

3. THIS COURT ORDERS that if a Lien Claimant does not deliver a Responding Affidavit on or before the Bar Date, it shall be forever barred from asserting a claim against the Property in priority to the Bank's mortgage and Am-Stat's mortgage in these proceedings or any other proceedings for an amount in excess of the Basic Holdback in respect of such Lien Claimant's construction lien.

[8] The Procedure Order further provided that, absent a consensual resolution, the priority dispute would be determined by a judge presiding over the Commercial List after cross-examinations on any affidavits filed in this proceeding, including an affidavit sworn June 13, 2016 by Philip Meretksy on behalf of Am-Stat (the "Meretksy Affidavit"). As there was no consensual resolution, the matter was heard by the Court on October 7, 2016.

Preliminary Matters

[9] At the outset, the Court addressed three preliminary matters.

[10] First, certain parties took the position in their facts that a Lien Claimant who failed to file an affidavit in the proceeding would be denied its claim even if such claim was validly registered and perfected, and notwithstanding the provisions of section 80 of the CLA. The Court advised the parties that this was not the intention of the Court and that the Court was proposing to amend the Procedure Order to clarify the Court's intention before any further steps occurred in this proceeding. Specifically, the Court did not intend to require a Lien Claimant to file an affidavit unless it asserted a priority over other Lien Claimants with whom it would otherwise be in the same class for the purposes of section 80 of the CLA. On this basis, a Lien Claimant who did not assert such a claim was nevertheless at liberty to participate in the proceedings contemplated by the Procedure Order, including attending cross-examinations and filing a factum, to the extent it wished to do so.

[11] The Court further indicated that it was only prepared to proceed to a determination of the issues in this proceeding if it was satisfied that none of the parties would be relying on the absence of an affidavit from any Lien Claimant to assert a priority over such Lien Claimant for that reason alone. All parties present at the hearing indicated that they would not do so to the extent they had done so in their respective facts or would otherwise have done so. On this basis, the Court indicated that it was prepared to determine the issues in this proceeding as contemplated by the Procedure Order.

[12] Second, counsel for Am-Stat Corporation ("Am-Stat") raised the issue of whether all parties to this proceeding were prepared to determine the issues on the summary procedure contemplated by the Procedure Order. In particular, Am-Stat referred to the procedure's reliance solely on the record before the Court without a trial of the issues involved and any further evidence by *viva voce* testimony or otherwise. All parties at the hearing, including Am-Stat, confirmed that they were prepared to proceed on that basis. In addition, none of the parties served with the Procedure Order but not present at the hearing had raised any objection to the Procedure Order. On this basis, the Court concluded that it had jurisdiction to determine the issues before it.

[13] Lastly, counsel for Guest Tile Inc. ("Guest") raised an issue regarding the admissibility of an affidavit of Shaun Parekh sworn September 30, 2016 and filed by Marshall Zehr Group Inc. ("MarshallZehr"). The Procedure Order did not contemplate an affidavit of MarshallZehr. Accordingly, the Court concluded that it did not fall outside the timeline for filing an affidavit contemplated by the Procedure Order. In addition, the affidavit addressed matters clearly relevant to the Collateral Mortgage (as defined below), which was originally granted by the Borrower in favour of Laurentian Bank but has since been assigned to MarshallZehr (as described below). The parties also require a determination of the priority of the Collateral Mortgage before any distribution can be made to the Lien Claimants. The Court advised the parties that it was therefore prepared to accept the affidavit as evidence in the record for this motion.

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[14] As the affidavit was only filed on September 30, 2016, however, the Court also stated that the other parties were entitled to cross-examine on the affidavit, and, if any party chose to do so, the Court would adjourn this hearing until after such cross-examination was completed. The Court canvassed the extent to which any party had such intention. The parties advised that none of them, including Guest, sought an adjournment of the hearing for the purpose of cross-examination on the affidavit.

Laurentian Mortgage

[15] The Borrower granted a first mortgage in the principal amount of \$45 million in favour of the Laurentian Bank of Canada ("Laurentian") which was registered on title to the Phase II Lands and the Vacant Lands on December 23, 2011 (the "Laurentian Mortgage"). The Laurentian Mortgage secured advances under a construction loan (the "Construction Loan"), a letters of credit facility (the "Letters of Credit Facility"), and an operating line of credit (collectively, the "Credit Facilities").

[16] The Credit Facilities were established pursuant to a commitment letter of the Laurentian Bank, the Equitable Trust Company and Pacific & Western Bank of Canada dated August 4, 2011 as amended by an amending agreement dated March 8, 2012 (collectively, the "Commitment Letter"). I note that the Commitment Letter contemplates that Jade-Kennedy Development Corporation is the Borrower under the Credit Facilities, but the letter identifies the "Beneficial Owner" as "Mady-Jade Corporation and Jolie-Jade Corporation ("Jolie-Jade") carrying on business as the Jade-Kennedy Co-Tenancy".

[17] It is not disputed that all advances under the Construction Loan were made prior to the registration and perfection of any construction liens and in the absence of any written notice of a lien to Laurentian Bank.

[18] At the present time, all amounts owing under the Credit Facilities have been paid in full and the outstanding letters of credit issued under the Letters of Credit Facility have been replaced by letters of credit of another bank by order of Conway J. dated March 22, 2016 (the "Conway Order"). The only remaining amounts owed by the Borrower in respect of the Laurentian Mortgage are approximately \$50,000 of professional fees.

The Am-Stat Mortgage

[19] Am-Stat is the holder of a second mortgage registered on September 4, 2013 in the principal amount of \$10 million granted by the Borrower on the Phase II Commercial Project and the Vacant Lands (the "Am-Stat Mortgage"). The Am-Stat Mortgage secured an advance on September 5, 2013 in the principal amount of \$10 million (the "Am-Stat Advance") pursuant to a commitment letter dated August 6, 2013 (the "Am-Stat Commitment Letter").

[20] In the Meretksy Affidavit, Am-Stat produced an incomplete extract of the Am-Stat Commitment Letter, a funding direction in respect of the Am-Stat Advance, a pay-out statement dated January 12, 2015, and an extract from a mortgage apparently given by Milliken Development Corporation ("Milliken") in respect of the Am-Stat Advance (the "Milliken Mortgage").

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[21] From this incomplete documentation, it is possible to conclude that the Am-Stat Advance was made jointly to the Borrower and Milliken, who were jointly and severally liable for repayment. It is also possible to establish that the Am-Stat Advance was secured by mortgages granted by each of the Borrower and Milliken on properties owned by them, being the Am-Stat Mortgage and the Milliken Mortgage, respectively, which secured their respective joint and several obligations in respect of the Advance. The Am-Stat Commitment Letter expresses the purpose of the loan facility provided thereunder to be “to provide the Borrower with financing to repay equity and to complete buy-out of joint venture co-owner”. For this purpose, it appears that the “Borrower” means Jade-Kennedy Development Corporation and Milliken Development Corporation, jointly. The Am-Stat Commitment Letter expressly states that this is not a construction loan and that funds will not be used for payment of construction accounts.

[22] The funding direction for the Am-Stat Advance indicates that the proceeds were to be used as follows:

- (1) to Jolie-Jade, the amount of \$5,457,399.20 by way of repayment of a debt obligation evidenced by a promissory note which was apparently secured by mortgages of each of the Borrower and Milliken on properties owned by them. The promissory note is not in evidence;
- (2) to Jade-Jolie’s solicitors, legal fees in the amount of \$1,650;
- (3) to Am-Stat, a finder’s fee of \$200,000 plus HST;
- (4) to Am-Stat’s solicitors, legal fees in the amount of \$33,000 plus disbursements and HST; and
- (5) to D. Mady Investments Inc., the balance.

[23] It is not disputed that the Am-Stat Advance was made prior to the registration or perfection of any construction liens and in the absence of any written notice of any lien to Am-Stat.

Collateral Mortgage

[24] In addition to the Credit Facilities described above, the Borrowers granted a charge on the Phase I Lands in the principal amount of \$3.6 million in favour of Laurentian Bank which was registered on October 1, 2014 (the “Collateral Mortgage”). The Collateral Mortgage secured a guarantee of the Borrower to Laurentian of credit facilities made available by Laurentian to 144 Park Ltd. (“144 Park”). 144 Park also granted a mortgage on all of its lands to Laurentian to secure the loan which was approximately \$39 million.

[25] It is understood that 144 Park is, or was, the owner of a property located in Waterloo, Ontario on which a residential condominium has been constructed. Collins Barrow Toronto Limited has also been appointed as a trustee under the CLA with respect to the lands owned by 144 Park for the purpose, among other things, of resolving issues pertaining to lien claimants in respect of such lands.

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[26] Pursuant to an assignment agreement dated January 23, 2015, MarshallZehr acquired the entire loan position of Laurentian in respect of 144 Park, including the security granted to the Bank. Accordingly, MarshallZehr is currently the holder of the Collateral Mortgage.

[27] MarshallZehr has provided a certificate of advance dated October 27, 2014 provided by Charles Mady to Laurentian. In it, Mr. Mady purports to certify, as an officer or director of 144 Park, the amount and date of each advance under the credit facilities established by Laurentian Bank in favour of 144 Park Ltd. The first advance was made on May 25, 2012. Of relevance for the present proceeding, the advances include an advance of \$3.6 million on October 8, 2014, shortly after registration of the Collateral Mortgage, as well as a further advance dated October 24, 2014.

[28] It is not disputed that the advances to 144 Park Ltd. in October 24, 2014 were made prior to the registration and perfection of any construction liens on the lands subject to the Collateral Mortgage and in the absence of any written notice of any lien to Laurentian.

The Common Legal Issues

[29] The Lien Claimants make two submissions that raise common legal issues in respect of each of the Laurentian Mortgage, the Am-Stat Mortgage and the Collateral Mortgage (collectively, the "Mortgages").

[30] In each case, the Mortgages are "subsequent mortgages" for the purposes of section 78 of the CLA. As such, the applicable provisions of section 78 of the CLA for present purposes are sections 78(1) and 78(6), which read as follows:

78. (1) Except as provided in this section, the liens arising from an improvement have priority over all conveyances, mortgages or other agreements affecting the owner's interest in the premises. ...

(6) Subject to subsections (2) and (5), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that is registered after the time when the first lien arose in respect to the improvement, has priority over the liens arising from the improvement to the extent of any advance made in respect of that conveyance, mortgage or other agreement, unless,

(a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or

(b) prior to the time when the advance was made, the person making the advance had received written notice of a lien.

[31] The Lien Claimants assert that, in each case, (1) the mortgagees failed to conduct appropriate due diligence; and (2) the monies secured by the Mortgages do not constitute an "advance made in respect of that mortgage". I will address each issue in turn.

The Alleged Due Diligence Obligation

[32] As mentioned, there is no dispute that there were no registered or perfected liens against the lands secured by the Mortgages at the time that the advances at issue were made thereunder.

[33] However, Guest argues that, notwithstanding the language of section 78(6) of the CLA, the mortgagees, to protect their priority, had an obligation to do more than sub-search title to the premises prior to making an advance. Guest argues that the mortgagees were aware of the fact that construction was underway on the Project at the time of such advances and therefore the mortgagees had an obligation to make inquiries to determine if any work was unpaid at that time.

[34] There is no basis for such an obligation in the provisions of section 78(6). It provides for the very situation presented in this case – the registration of a mortgage after construction has commenced on a property. In such circumstances, there is a high likelihood of knowledge of any construction on the property on the part of the mortgagee. Section 78(6) provides for priority of a mortgage provided the conditions in paragraphs 78(6)(a) and (b) are satisfied. There is no basis for implying a further condition, particularly a condition which would render paragraphs (a) and (b) redundant.

[35] Accordingly, this submission is dismissed.

Advances Made in Respect of the Mortgages

[36] The Lien Claimants also submit that the monies secured under the Mortgages do not, in each case, constitute an “advance also made in respect of that mortgage” for the purposes of section 78(6). Their submissions on this point raise an issue of law which is common to their claims in respect of each of the Mortgages and issues of fact which are specific to each Mortgage. I propose to discuss the common legal issue in this section and then to address the application of the relevant legal principles to the factual circumstances pertaining to each Mortgage separately below.

[37] There is little case law on the principles that determine whether monies advanced or otherwise paid in respect of a mortgage constitute an “advance made in respect of that mortgage”. The parties have referred to two particular decisions that are of some relevance.

[38] In *Penniac Construction & Management Ltd. v. 1291126 Ontario Ltd.*, 2008 NBQB 159, 332 N.B.R. (2d) 201, the court addressed the extent to which professional fees and other costs in respect of a mortgage, including fees incurred in enforcement proceedings, were entitled to priority under the *Mechanics Lien Act* of New Brunswick. Section 9(2) of that statute provided for priority in favour of a mortgage in respect of “a payment or advance made on account of the...mortgage...before the filing of a claim of lien or before notice in writing of the lien...”

[39] The trial judge in *Penniac* reached his decision by applying the principle in *M. Sullivan & Son Ltd. v. Rideau Carleton Raceway Holdings Ltd.*, [1971] S.C.R. 2, which he considered, at para. 65, was also applicable to “properly recoverable costs owed under the mortgage”. The relevant portion of the judgment of the Supreme Court, at paras. 5-6, relied upon by the trial judge reads as follows:

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This legislation has been in force for a long time. Until the issue was raised in these proceedings, there was no case which drew any distinction between the rights of the mortgagee to priority for principal and his rights to priority for interest.

Both the trial judge and the Court of Appeal, in this case have rejected any such distinction and I agree with them. Principal and interest are equally secured under the mortgage. The right to interest is an essential, inseparable, constituent part of the advance made on account of the mortgage. Without such a right no building loans would ever be made in a commercial way. The registration of a claim for lien or notice in writing of such a claim cannot stop the running of interest or affect the mortgagee's priority for continuing interest on advances validly made under s. 13(1) of *The Mechanics' Lien Act*.

[40] I note that the decision in *M. Sullivan Son Ltd.* addressed section 13(1) of the *Mechanics' Lien Act*, R.S.O. 1960, c. 233 in which, for present purposes, the operative language was "all payments or advances made on account of any mortgage..."

[41] The second relevant decision is *XDG Ltd. v. 1099606 Ontario Ltd.* (2002), 41 C.B.R. (4th) 294 (Ont. S.C.) aff'd (2004), 1 C.B.R. (5th) 159 (Ont. Div. Ct.). In *XDG*, the court addressed the operation of section 78(6) of the CLA in respect of a collateral mortgage given to secure the obligations of a guarantor pursuant to a guarantee of a loan given to a borrower. The loan was secured by a mortgage on the assets of the borrower. The collateral mortgage was secured on assets of the guarantor and was given after advances had been made under the loan.

[42] In finding that the lien claimants on the property secured by the collateral mortgage had priority over the collateral mortgage, the trial judge stated the following at paras. 94-96:

As previously stated, the mortgage was provided as collateral security with respect to the prior indebtedness of Euro United. No advance was made to 109 nor did 109 benefit in any manner whatsoever. The statutory provisions refer to amounts advanced, not amounts secured: See *561861 Ontario Ltd. v. 1085043 Ontario Inc.* (1998), Kirsh's C.L.C.F. 78.50 (Gen. Div.)

In *Marsil Mechanical v. A Reissing-Reissing Enterprise Ltd.* (1996), Kirsh's C.L.C.F. 78.40 (Gen. Div.), Klowak J. said:

In considering the definition of 'advance' it seems to me that, for purposes of the Construction Lien Act...it must mean when the owner, or the owner's delegate, acquires actual control of the money.

Accordingly, I find there was no advance under the mortgage from 109 to GECC and, therefore, the lien claimants have priority pursuant to section 78 of the *Construction Lien Act*.

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[43] The trial decision in *XDG Ltd.* was affirmed by the Divisional Court which, at para. 29, also relied on a distinction between advances made under the credit agreement and advances made under the mortgage:

The CLA is to be interpreted liberally in favour of lien claimants. The overarching principle of the CLA is that lien claimants have priority over other interests. It is necessary for a mortgagee to persuade the court that it falls within one of the exceptions to the general priority of lien claimants. (*XDG's Factum*, para. 58)

GECC failed to demonstrate that its Mortgage should take precedence over the lien claimants. The Mortgage was registered after the first lien arose. As such, GECC's priority was limited to the extent of any advance made in respect of the Mortgage. *GECC did not advance any amount in respect of the Mortgage. Any advances made were made to Euro, not to "109", and they were made in respect of the Credit Agreement, not in respect of the Mortgage.* (*XDG's Factum*, paras. 59-61; *David Schaeffer Engineering Ltd. v. D.T.A. Investments Inc.* (1998), 37 C.L.R. (2d) 26). The courts have held that where a mortgage was registered to secure a pre-existing debt for the purposes of the CLA, no monies were advanced. (*561861 Ontario Ltd. v. 1085043 Ontario Inc.* (1998), Kirsh's C.L.C.F. 78.50 at 78.166-167 and 169). [italics added]

[44] The Lien Claimants in the present action assert that *XDG Ltd.* stands for the proposition that the language in section 78(6) – “advance made in respect of that mortgage” – requires demonstration not only that monies advanced have been advanced to the mortgagor, but also that they have been applied toward the improvement of the lands under construction. I do not accept this interpretation of section 78(6) for the following reasons.

[45] The language of section 78(6) does not provide any support for such an interpretation of the statute. Section 78(6) provides for a priority in favour of a mortgage “to the extent of any advance made in respect of that ... mortgage”. *XDG Ltd.* did not go any further. The decision is based on the requirement in section 78(6) that monies be “advanced” in respect of the mortgage, rather than merely secured. It was not necessary to go further to address whether or not the monies advanced under the mortgage benefitted the guarantor and I do not read the decision as doing so. Insofar as the trial judge and the Divisional Court considered that the language under section 78(6) requires demonstration of a benefit, they limited that requirement to demonstration that the borrower received the proceeds of the advance. Neither the trial court judge nor the Divisional Court required the mortgagee to demonstrate that the proceeds of the advance were actually applied to improve the lands under construction against which the lien claimants asserted their claims.

[46] There is no other case law cited to the Court that would support such an interpretation of the requirement in section 78(6). Insofar as the Lien Claimants rely on language of the trial judge in *Marsil Mechanical v A. Reissing-Reissing Enterprise Ltd.* (1996), 26 C.L.R. (2d) 148 (Ont. C.J. (Gen. Div.)), I do not think their position is supportable. *Marsil* addresses a very different issue – being the timing for the purposes of the commencement of the accrual of interest under a mortgage. *Marsil* did not address, or imply, a requirement that an advance benefit the

mortgagor's property. On its own language, *Marsil* merely addressed when a mortgagor is to be regarded as having received monies advanced under a mortgage.

[47] I note that, by implication, any issues pertaining to the circumstances in which a mortgagor uses the proceeds of an advance for purposes unrelated to the lands upon which construction is proceeding are left to be dealt with under fraudulent conveyance and similar legislation, to the extent applicable.

Analysis of the Applicable Legal Principles

[48] As mentioned, the issues in the present case involve the interpretation of the phrase "any advance made in respect of that...mortgage" and, in particular, the meanings of the word "advance" and the phrase "in respect of". From the cases cited above, although they are based on somewhat different language, three principles are clear.

[49] First, *M. Sullivan & Son* and *XDG Ltd.* demonstrate that the concept of an "advance" is not limited to the principal amount advanced under a mortgage. It includes all amounts which the mortgagor is contractually obligated to pay in respect of any such principal amount advanced, including interest and the costs of registration, perfection and enforcement of the mortgagee's security for the advance irrespective of when incurred. As the Supreme Court noted, without such a right, building loans and other commercial loans would not be made in a commercial manner.

[50] Second, it is also clear that the phrase "in respect of" is intended to be broader than "under" insofar as "under" refers to advances made directly by a mortgagee to a mortgagor pursuant to a mortgage loan.

[51] This conclusion is based not only on the common usage of such phrase but also on the context in which construction and other loans are extended by institutional and other lenders. Such loans are not limited to traditional mortgage loans. More commonly, such loans are extended pursuant to a loan agreement which provides for security granted in separate documentation against the borrower's property to secure all monies advanced or otherwise payable under the loan agreement.

[52] Third, *XDG Ltd.* establishes that a collateral mortgage given to secure a guarantee of an underlying loan to another party does not give rise to "an advance made in respect of that mortgage" at least to the extent that no further advance is made after delivery of the collateral mortgage. I would note, however, that this result follows from the absence of any advance, rather than from an interpretation of the meaning of the phrase "in respect of".

[53] The issue raised by the Am-Stat Mortgage and the Collateral Mortgage is whether the phrase "in respect of" provides a priority to a collateral mortgagee in circumstances where an advance is made pursuant to the underlying loan, rather than the collateral mortgage, after delivery of the collateral mortgage. Is such a loan made "in respect of" the collateral mortgage?

[54] This is a question of statutory interpretation. In this regard, I accept the principles referred to in *XDG Ltd.* at paras. 82 and 83 as follows:

In *Boehmers v. 794561 Ontario Inc.* (1993), 1993 CanLII 8486 (ON SC), 14 O.R. (3d) 781 (Gen. Div.), affirmed (1995), 1995 CanLII 660 (ON CA), 21 O.R. 771 (O.C.A.), Killeen J. said:

Section 78(1) is the overarching principle of the regime of the Act for the determination of priorities. It is, if you will, the central interpretative principle for the adjudication of conflicts of this type before the court in this case. Surely, it necessarily implies that, in cases of conflicts, as here, the burden must be on the mortgagee to persuade the court that it somehow falls clearly within a specified exception to the generalized priority of the liens.

The comment by Rosenberg J. in *697470 Ontario Ltd. v. Presidential Developments Ltd.* (1989), 1989 CanLII 4336 (ON SC), 69 O.R. (2d) 334 (Div. Ct.) is also of assistance where, at p. 337, he said:

“Accordingly, while the Act may merit a liberal interpretation with respect to the rights it confers upon those to whom it applies it must be given a strict interpretation in determining whether it does in fact apply: *Clarkson Co. Ltd. v. Ace Lumber Ltd.* (1963), 1963 CanLII 4 (SCC), 36 D.L.R. (2d) 554 (S.C.C.)” Essentially, the issue is whether an advance under a loan between a lender and a borrower can also be an advance in respect of a collateral mortgage given by a mortgagor to the lender to secure the mortgagor’s guarantee of, or other covenant in respect of, repayment of the loan.

[55] Absent special circumstances, I am not persuaded that an advance under a mortgage loan, or a secured loan facility, constitutes an “advance made in respect of” a collateral mortgage given to secure a guarantee by a third party of a borrower’s obligations under the mortgage loan or the secured loan facility. I reach this conclusion for three reasons.

[56] First, an advance is made under a particular secured loan facility or mortgage loan. When repayment of that advance is guaranteed by a third party who has provided a collateral mortgage to secure the third party’s guarantee, the amount of the advance would also be secured under the collateral mortgage indirectly via the guarantee. However, I do not think that an advance to a borrower under a mortgage loan, or in favour of borrower under a secured loan facility, can also be said to be “an advance in respect of” the guarantee or any collateral mortgage that secures the guarantee. Rather, the advance is made to the borrower in each case, not the guarantor, even if the advance also increases the amount owing under the guarantee.

[57] I note that, in the italicized sentences noted above in the decision of the Divisional Court in *XDG Ltd.*, I believe that the Divisional Court reached the same conclusion as the basis for its decision. I would suggest that, in fact, the foregoing analysis provides a more appropriate basis for the decision in *XDG Ltd.* than the timing of advances, which was the basis of the trial court judge in that case.

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[58] Second, as the circumstances pertaining to the Collateral Mortgage demonstrate, there is an inherent problem in respect of a collateral mortgage granted after an initial advance under an underlying loan. Insofar as the collateral mortgage purports to secure the initial advance as well as any subsequent advances, the principle in *XDG Ltd.* would suggest that the collateral mortgage does not secure the initial advance. It is therefore necessary to argue, as MarshallZehr does (discussed below), that the collateral mortgage secures only advances made after delivery of the collateral mortgage.

[59] It is not feasible, however, to separate advances in this manner. Advances are essentially fungible. To approach the amount secured under a collateral mortgage in such manner, it would be necessary to establish a principle to determine, in respect of payments made on the underlying loan, how amounts are to be applied under the loan agreement in order to determine whether or not there are any advances outstanding at the time of enforcement proceedings that represent advances made after the grant of the collateral mortgage. I am not persuaded that such an approach is practical given the number of problematic scenarios that could arise depending upon the principle selected for such determination.

[60] Third, more significantly, this treatment of advances is inconsistent with the concept of the guarantor's obligations under the guarantee which are secured by the collateral mortgage. Such obligations are expressed in terms of a guarantee of the borrower's obligations in respect of the loan, not in terms of the borrower's obligations in respect of particular advances. Accordingly, a typical guarantee does not distinguish between obligations in respect of advances made before or after the delivery of any collateral mortgage given to secure the guarantor's obligations. Unless specific provision is made in the guarantee, all advances give rise to obligations under the guarantee that are thereby secured under the collateral mortgage, regardless of the timing of such advances, subject only in certain cases to a maximum liability.

[61] Based on the foregoing, I conclude that an advance made under a loan agreement between a lender and a borrower is not "an advance in respect of" a collateral mortgage given to secure the obligations of a guarantor under a guarantee of the borrower's obligation under the loan agreement.

Application of the Foregoing Legal Principles

[62] I turn then to the application of the foregoing legal principles to the particular circumstances of each Mortgage.

Laurentian Mortgage

[63] Based on the principle articulated in *Penniac*, I conclude that the professional fees at issue with respect to the Laurentian Mortgage are entitled to the benefit of the priority in section 78(6) to the extent they are contractual obligations under the terms of the Credit Facilities.

[64] Paragraph 37 of the Commitment Letter obligated the Borrower to pay certain costs, fees and expenses related to the Credit Facilities. Such costs, fees and expenses included "all fees and costs incurred in connection with the realization of the Lender's security".

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[65] Laurentian Bank says the professional fees at issue in this proceeding related to the protection of its security under the Laurentian Mortgage in respect of any contingent claims in respect of the Letters of Credit Facility prior to the replacement of the outstanding letter of credit pursuant to the Conway Order. Such fees are consistent with the intention that all legal fees incurred by the Bank in respect of realization proceedings would be secured under the Laurentian Mortgage. As such, I think the principle in *Penniac* would be applicable, notwithstanding the timing of the incurring of such fees in relation to the registration of the construction liens.

[66] Accordingly, I conclude that the Laurentian Mortgage has priority over the Lien Claimants to the extent of such professional fees, subject to the advice of the Trustee that the fees claimed are limited to legal advice provided in respect of the Letters of Credit Facility in connection with this proceeding.

The Collateral Mortgage

[67] I have reached the conclusion above that, absent special circumstances, an advance under a mortgage loan, or a secured loan facility, does not constitute an “advance made in respect of” a collateral mortgage given to secure a guarantee by a third party of a borrower’s obligations under a loan made to the borrower. MarshallZehr argues, however, that there are special circumstances that require a different result in the case of the Collateral Mortgage.

[68] It argues that Laurentian Bank would not have made the \$3.6 million advance on May 8, 2014 but for the provision of the Collateral Mortgage in the same principal amount. It says that, in these circumstances, the Court should find that the \$3.6 million advance to 144 Park on May 8, 2014 was an “advance made in respect of” the Collateral Mortgage. I do not accept this submission for two reasons.

[69] First, the special circumstances asserted by MarshallZehr are that the \$3.6 million advance to 144 Park would not have been made but for the provision of the guarantee of the Borrower and the provision of the Collateral Mortgage in respect of such guarantee. That is not sufficient to establish that the \$3.6 million advance was made under the Collateral Mortgage. It remains the case that the advance was made to 144 Park under the loan agreement between Laurentian Bank and 144 Park. Nor does it affect the analysis set out above that the Collateral Mortgage secures the Borrower’s guarantee and, only indirectly, secures the amount of the advance. As mentioned, this conclusion is supported by the italicized sentences in the decision of the Divisional Court in *XDG Ltd.* set out above.

[70] Second, as a related matter and as contemplated in the discussion above, it is not possible, nor was it intended, to segregate the \$3.6 million advance to 144 Park from all other advances made to that party. On its own terms, the Collateral Mortgage secured the obligation of the Borrower, as guarantor, to pay all amounts owing pursuant to its guarantee to an aggregate liability of \$3.6 million. It does not purport to secure only the amount owing pursuant to the particular advance of \$3.6 million.

[71] Based on the foregoing, I conclude that the Lien Claimants have priority over the Collateral Mortgage to the extent they have registered and perfected liens over the Lands subject to the Collateral Mortgage.

The Am-Stat Mortgage

[72] The Am-Stat Mortgage gives rise to a more complicated issue in regard to the operation of section 78(6) based on the structure of the underlying loan.

[73] As mentioned above, Am-Stat has chosen not to provide a complete copy of the Am-Stat Commitment Letter or the mortgage documentation pertaining to the loan arrangements contemplated therein. This is relevant insofar as Am-Stat bears the onus of proving that it falls within a specified exemption to the generalized priority of liens under the CLA.

[74] As mentioned, insofar as it is possible to infer the structure of the loan, it appears that there were two borrowers, the Borrower and Milliken, who were jointly and severally liable for repayment of the Am-Stat Advance and that each mortgaged or charged its lands to Am-Stat to secure its obligations and the obligations of its co-borrower under the loan arrangements. Further, while the evidence before the Court indicates the ultimate recipients of the loan proceeds of the Am-Stat Advance, it does not indicate the actual recipient or recipients of such monies as between the Borrower and Milliken.

[75] The structure of this loan and the related security arrangements raise the question of whether the \$10 million advance made under the Am-Stat Commitment Letter to the Borrower and Milliken jointly was an advance made "in respect of" the Am-Stat Mortgage.

[76] As mentioned, under the loan arrangements established by the Am-Stat Commitment Letter, each of the Borrower and Milliken charged its property to secure its own obligations and the obligations of its co-borrower. With one qualification, such an arrangement is functionally equivalent to each of the Borrower and Milliken granting a charge to secure loan advances made to it and granting a collateral charge to secure loan advances made to its co-borrower. The qualification is that, under the Am-Stat Commitment Letter, each borrower is jointly and severally liable in respect of the entirety of the Am-Stat Advance regardless of which party actually paid the loan proceeds to the third parties described above. Accordingly, each borrower is liable as a primary obligor in respect of the full amount of the Am-Stat Advance, rather than as a guarantor, with the result that defences available to a guarantor are not available to the co-borrowers.

[77] There are two possible approaches to treatment of the Am-Stat Advance given these security arrangements.

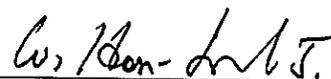
[78] The first approach would distinguish between proceeds of the Am-Stat Advance paid to the Borrower and proceeds paid to Milliken and would treat the Am-Stat Mortgage as a collateral mortgage to the extent it purports to secure the portion of the Am-Stat Advance received by Milliken. I have considerable sympathy for this position insofar as the Lien Claimants could reasonably expect that the priority in favour of mortgagees in section 78(6) should pertain to advances that were at least received by a borrower if not actually applied by the borrower to improve the lands subject to lien claims. However, for this approach to apply, it must be possible to segregate the proceeds of the Am-Stat Advance as between the Borrower and Milliken both as a legal matter and as a practical matter.

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[79] In this case, however, the Am-Stat Advance was made jointly to both borrowers. As described above, in the documentation pertaining to these loan arrangements, both the Borrower and Milliken are treated as having each received the full amount of the Am-Stat Advance and as having jointly directed payment to the third party recipients described above. This approach is also reflected in the provisions of each of the Am-Stat Mortgage and the Milliken Mortgage that provide that these charges secure "one and the same Indebtedness" and that payments made under either of these charges shall constitute payments under both of the charges. It is therefore not possible, as a legal or a practical matter, to distinguish between proceeds of the Am-Stat Advance paid to the Borrower and proceeds paid to Milliken.

[80] Given these circumstances, the requirement under section 78(6) of the CLA that funds be advanced to the Borrower in respect of the Am-Stat Advance is satisfied to the extent of the full amount of such Advance. Insofar as the loan proceeds were paid to the third party recipients in satisfaction of joint obligations of the Borrower and Milliken, there can be no issue that the monies were advanced to the Borrower prior to their payment to the third parties. To the extent that any monies were jointly directed to be paid to third parties solely on behalf of Milliken, the Borrower is treated as having received the monies and then having released its interest in the monies in favour of Milliken prior to the payment of such monies by Milliken to the third party.

[81] Based on the foregoing, I conclude that Am-Stat has established, on a balance of probabilities, that all of the monies advanced under the Am-Stat Commitment Letter, being the Am-Stat Advance, represented an advance made in respect of the Am-Stat Mortgage for the purposes of section 78(6) of the CLA. On this basis, I also conclude that the Am-Stat Mortgage has priority over the Lien Claimants to the extent of the monies secured under the Am-Stat Mortgage.



Wilton-Siegel J.

Date: December 6, 2016

TAB K

Court File No. CV15-10882-00CL

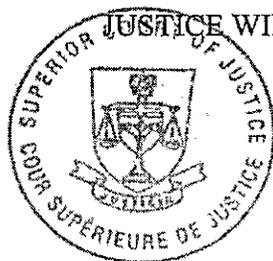
**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE

TUESDAY, THE 6th DAY

JUSTICE WILTON-SIEGEL

OF DECEMBER, 2016



**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

THIS MOTION, made by Collins Barrow Toronto Limited, in its capacity as the Court-appointed trustee over the lands and premises owned by Jade-Kennedy Development Corporation (the “Debtor”) pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the “*CLA*”) (the “Trustee”), for advice and direction with respect to, *inter alia*, the outstanding priority dispute between mortgagees and construction lien claimants under the Order (Priority Resolution Process) of The Honourable Mr. Justice Wilton-Siegel dated June 30, 2016, was heard on October 7 and 11, 2016 at 330 University Avenue, Toronto, Ontario, with an Endorsement released on December 6, 2016.

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ON READING the Motion Record of the Trustee, the Ninth Report of the Trustee dated September 30, 2016 (the “**Ninth Report**”), the Affidavit of Philip H. Meretsky sworn June 13, 2016, the Affidavits of Steve Basso sworn April 7, 2016 and August 2, 2016, the Affidavit of Jeff Weller sworn July 11, 2016, the Affidavit of Shaun Parekh sworn September 30, 2016, the Affidavit of Jeremy Sacks sworn August 3, 2016, the Affidavit of Tony Cosic sworn April 4, 2016, the Affidavit of Leonard Finegold sworn August 3, 2016, and upon hearing submissions from counsel for the Trustee, Laurentian Bank of Canada (“**Laurentian**”), Am-Stat Corporation (“**Am-Stat**”), MarshallZehr Group Inc. (“**MarshallZehr**”), Dircam Electric Limited, Procan Inc., Great Pyramid Aluminum Ltd., Guest Tile Inc., Imperial Trim Supply Ltd., Frendell Kitchens Limited, Screen Painting Ltd., 2050491 Ontario Inc. o/a The Downsview Group, Global Precast Inc., and Brody Wall System Ltd.,

Laurentian Charge

1. **THIS COURT ORDERS AND DECLARES** that the professional fees associated with the Charge/Mortgage registered in favour of the Laurentian on December 23, 2011, in the principal amount of \$45 million, as Instrument No. YR1763873 in the Land Registry Office (#65) (the “**Laurentian Charge**”), have priority, pursuant to section 78(6) of the *CLA*, over the claims of contractors that have registered and perfected construction liens against the premises and lands of the Debtor subject to the Laurentian Charge.

Laurentian/MarshallZehr Collateral Charge

2. **THIS COURT ORDERS AND DECLARES** that the claims of contractors that have registered and perfected construction liens against the premises and lands of the Debtor subject to the Charge/Mortgage registered in favour of the Laurentian on October 1, 2014, in the

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principal amount of \$3.6 million, as Instrument No. YR2195650 in the Land Registry Office (#65), as subsequently assigned to MarshallZehr (the "Collateral Charge"), have priority, pursuant to section 78 of the *CLA* over the claims of Laurentian and MarshallZehr in connection with the Collateral Charge.

Am-Stat Charge

3. **THIS COURT ORDERS AND DECLARES** that the Charge/Mortgage registered in favour of Am-Stat on September 4, 2013, in the principal amount of \$10 million, as Instrument No. YR2029025 in the Land Registry Office (#65) (the "Am-Stat Charge"), has priority, pursuant to section 78(6) of the *CLA*, over the claims of contractors that have registered and perfected construction liens against the premises and lands of the Debtor subject to the Am-Stat Charge. For greater certainty, the issue as to whether or not the construction liens validly attach to the Vacant Lands (as defined in the Ninth Report), which are subject to the Am-Stat Charge, was not before the Court at the hearing of the motion.



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

FEB 28 2017

PER / PAR: 

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

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Lawyers for the Trustee

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

MOTION RECORD OF THE TRUSTEE
(motion returnable October 18, 2017)

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Limited, Court-appointed Trustee**