

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

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

**MOTION RECORD
(Sale Approvals)
returnable August 30, 2024**

August 20, 2024

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**ONTARIO
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TAB 1

Court File No.: CV-24-00715321-00CL

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

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

NOTICE OF MOTION

KSV Restructuring Inc. ("**KSV**"), in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of: (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order, defined below) (the "**Real Property**"); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**", together with Hazelton, the "**Debtors**"), or either of them, acquired for, or used in relation to a business carried on by the Debtors (the "**Property**"), or either of them, including all proceeds thereof, will make a motion to a Judge of the Superior Court of Justice (Commercial List) on **Friday, August 30, 2024 at 10:00 a.m.**, by judicial videoconference via Zoom at Toronto, Ontario. Please advise if you intend to join the motion by emailing Lauren Archibald at lauren.archibald@nortonrosefulbright.com.

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

THE MOTION IS FOR ORDERS, among other things:

1 If necessary, abridging and validating the time for service and filing of this notice of motion and motion record;

Retail APS and Level 1 Unit

2 Approving a transaction (the “**Retail APS Transaction**”) contemplated by an agreement of purchase and sale dated June 14, 2024 (the “**Stalking Horse APA**”) between the Receiver and Constantine Enterprises Inc. (“**CEI**”), as purchaser for the purchase and sale of the Retail APS (defined below) contemplated by the Stalking Horse APA and vesting all of Retail’s right, title and interest in and to the Retail APS to CEI;

3 Approving a transaction (the “**Level 1 Unit Transaction**”) for the sale of the Level 1 Unit (defined below) contemplated by the Retail APS, to be assigned to Hazy Holdings Inc. (“**Hazy**”) pursuant to an agreement of purchase and sale dated as of August 20, 2024 between CEI and Hazy (the “**Assignment Agreement**”) and a consent to assignment agreement dated as of August 20, 2024 among CEI, Hazy, and the Receiver, and vesting all of Hazelton’s right, title and interest in and to the Level 1 Unit to Hazy;

4 Sealing the confidential appendix to the second report dated as of August 20, 2024 (the “**Second Report**”) of the Receiver pending the closing of the Level 1 Unit Transaction or further order of the Court;

Second Floor Units

5 Approval of transactions (the “**Second Floor Transactions**”) contemplated by (a) an agreement of purchase and sale between Hazelton and CEI dated December 8, 2016, as amended (as amended, the “**201 APS**”); and (b) an agreement of purchase and sale between

Hazelton and CEI dated December 8, 2016, as amended (as amended, the “**204 APS**”, and together with the 201 APS, the “**Second Floor APAs**”) for the sale of Unit 201 and Unit 204 (as both terms are defined below and collectively, the “**Second Floor Units**”) to CEI and vesting all of Hazelton’s right, title and interest in and to the Second Floor Units to CEI;

Unit 403

6 Approval of a transaction (the “**Unit 403 Transaction**”) contemplated by the 403 APS (defined below) for the sale of Unit 403 (defined below), as assigned by CEI to Murad Shibeli (“**Shibeli**”) and subsequently assigned by Shibeli to Fawzia Ahmed Gashut (“**Gashut**”), and vesting all of Hazelton’s right, title and interest in and to (a) the 403 Purchased Assets (as defined below) to Gashut; and (b) the Assigned Parking Spot (as defined below) to CEI; and

Miscellaneous

7 Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

8 Capitalized terms used herein and not otherwise defined have the meaning given to them in the Second Report;

9 Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on June 4, 2024 (the “**Receivership Order**”) KSV was appointed as receiver and manager of the Property;

10 Hazelton is the registered owner of the Real Property, a nearly complete nine-storey, 20-unit luxury condominium development project located in Toronto’s Yorkville;

11 Hazelton is responsible for the development and construction and is currently the registered owner of 7 condominium units, the Level 1 Unit, and the parking spaces allocated to the respective units and the Level 1 Unit;

Retail APS and Level 1 Unit Transactions

12 The Level 1 Unit consists of a retail unit located on the ground floor of the Real Property together with one locker and 4 parking spaces (the “**Level 1 Unit**”);

13 The original agreement of purchase and sale for the Level 1 Unit dated November 29, 2016 was amended and restated on June 14, 2024 (the “**Amended and Restated Agreement**”) by KSV in its capacities as Receiver to facilitate the sale of the Retail APS including to, among other things, allow for the Level 1 Unit to be sold in its current state and on an “as is, where is basis”, and was further amended on August 9, 2024 to update the description of the parking spots forming part of the Level 1 Unit provided in the Amended and Restated Agreement (collectively, the “**Retail APS**”);

14 The amendments did not change the purchase price for the Level 1 Unit;

15 The purchaser under the Retail APS has the right to acquire the Level 1 Unit for a purchase price of \$2,393,000;

16 On June 21, 2024, the Court issued an order (the “**Retail APS Sale Process Order**”) which, among other things, approved:

- (a) a sale process for the marketing and sale of the Retail APS and the Level 1 Unit (the “**Retail APS Sale Process**”); and
- (b) the Stalking Horse APA solely for the purposes of acting as the stalking horse bid;

17 In connection with the Retail APS Sale Process Order, CBRE Limited (“**CBRE**”) was retained by the Receiver to market the Level 1 Unit;

18 The Retail APS Sale Process was launched in June, 2024;

19 CBRE advised interested parties that bids were to be submitted no earlier than July 24, 2024 (the “**Bid Deadline**”);

20 Three offers were submitted on or following the Bid Deadline, none of which satisfied the requirements to be a Qualified Bid (as defined in the Retail APS Sale Process);

21 Thereafter, CEI advised the Receiver that it was prepared to close on the Stalking Horse APA and to assign the Retail APS to the bidder with the best offer in the Retail APS Sale Process for an amount less than the assumed liabilities, being the purchase price for the Level 1 Unit of \$2,393,000;

22 The Receiver advised CEI that it was prepared to consider such a transaction provided that KSV would receive at least \$2,693,000, being \$300,000 for the Retail APS and \$2,393,000 for Level 1 Unit;

23 The offer submitted by Hazy for \$2,300,000 for the Level 1 Unit constitutes the next highest offer received in the Retail APS Sale Process;

24 Pursuant to the Assignment Agreement, CEI agreed to assign its interest in the Retail APS to Hazy and to pay to the Receiver the difference between Hazy’s offer of \$2,300,000 and the purchase price of \$2,393,000, being \$93,000, by way of a credit bid;

25 As result, the Retail APS and Level 1 Unit will be conveyed as follows:

- (a) CEI will complete the Stalking Horse APA for the purchase price of \$300,000 by way of a credit bid;
- (b) CEI will assign the right, title and interest in the Retail APS to Hazy;
- (c) Hazy will complete the purchase of the Level 1 Unit pursuant to the Retail APS for \$2,300,000;
- (d) CEI will pay \$93,000, by way of credit bid, being the difference between the Assumed Liabilities under the Retail APS and the amount of Hazy's offer; and
- (e) Court approval is to be sought within fourteen calendar days of the transaction being selected as the successful bid in the Retail APS Sale Process Order or such other date as agreed by Hazy;

The Second Floor Transactions

26 The Second Floor APAs were executed on December 8, 2016 between Hazelton and CEI for the purchase and sale of:

- (a) unit 201, together with one parking spot and one locker (collectively, "**Unit 201**");
and
- (b) the sale of suite 204 (formerly unit 205), together with three parking spots, and one locker (collectively, "**Unit 204**");

27 On August 7, 2024, the Second Floor APAs were amended to reflect, among other things, that the Second Floor Units are being conveyed on an "as is where is" basis with no further work by the vendor required;

28 The Second Floor Units are complete and are currently occupied by CEI;

29 CEI provided the Receiver with an appraisal of the Second Floor Units prepared by Simon & Associates Ltd. ("**Simon**") dated July 26, 2024 (the "**Simon Appraisal**") which estimated that the current market value of the Second Floor Units is \$3.2 million versus the combined purchase price of \$3.196 million pursuant to the Second Floor APAs;

30 CEI intends to complete the purchase of the Second Floor APAs immediately following Court approval of those transactions, if approved;

31 The Second Floor APAs are consistent with standard form condominium sale agreements, subject to such modifications for their intended use;

32 CEI has advised that it intends to pay the purchase price by credit bidding a portion of Hazelton's indebtedness owing to it;

33 CEI has provided the Receiver with a written undertaking to pay any and all amounts that rank in priority to it, as required by the Receiver;

34 The Second Floor APAs are unconditional and can be closed immediately following Court approval, if the Court approves the Second Floor Transactions;

35 A marketing process for the Second Floor Units would result in professional fees and transaction costs, meaning that the purchase price for the Second Floor Units would need to significantly exceed the purchase price pursuant to the Second Floor APAs; and

36 CEI, as the creditor that would most directly benefit from a superior transaction, consents to the completion of the sale of the Second Floor Transactions in accordance with the Second Floor APAs;

The 403 APS

37 On November 18, 2016, CEI entered into an agreement of purchase and sale, as amended (the “**403 APS**”) to purchase Unit 403 located at the Real Property, together with two parking spots and one locker (“**Unit 403**”) from Hazelton for \$2,208,800;

38 Prior to these proceedings, CEI retained Ferrow Real Estate Inc. (“**Ferrow**”) to, among other things, list Unit 403 for sale;

39 Ferrow is familiar with Hazelton through its relationships with CEI’s executives;

40 Edward Rogers and Robert Hiscox, a nominee of CEI and a director of Hazelton, indirectly own an interest in Ferrow;

41 In addition, Ferrow has listed and sold a number of other units in the building;

42 The proposed transaction with Gashut was identified through Ferrow’s marketing efforts;

43 The Receiver understands that Shibeli and Gashut are related;

44 Pursuant to an assignment of agreement of purchase and sale between CEI and Shibeli dated July 7, 2024 (the “**403 Assignment Agreement**”), and a consent and amendment agreement among CEI, Shibeli, and the Receiver (the “**403 Consent and Amendment Agreement**”), CEI agreed to assign its interest in the 403 APS to Shibeli for \$2,450,000 and Shibeli agreed to assign his entitlement to one of the Parking Spots to CEI (the “**Assigned Parking Spot**”);

45 The Receiver has been advised by CEI that as partial consideration for the assignment of the 403 APS, it was agreed that the Assigned Parking Spot would be assigned to CEI;

46 Pursuant to an amending agreement to the 403 Consent and Amending Agreement among Gashut, CEI, Shibeli, and the Receiver dated August 14, 2024, Shibeli agreed to assign his interest in the 403 APS to Gashut;

47 In accordance with the terms of the 403 Assignment Agreement, Gashut, on behalf of Shibeli, paid a deposit of \$121,000, which is presently being held in trust by Ferrow;

48 As result, the Unit 403 will be conveyed as follows:

- (a) Unit 403 is being purchased in its current state, on an “as is, where is” basis and the Receiver is not required to perform additional work;
- (b) Unit 403 is being sold without any material representations, on terms consistent with an insolvency transaction;
- (c) title to the Assigned Parking Spot will be assigned to CEI; and
- (d) the remaining assets of Unit 403, excluding the Assigned Parking Spot (the “**403 Purchased Assets**”), shall vest in Gashut;
- (e) the sale of Unit 403 is subject to Court approval; and
- (f) the Receiver is required to use its commercially reasonable efforts to seek Court approval of the sale on or before August 19, 2024, subject to Court availability;

49 The price per square foot for Unit 403 is in the range of recent comparable sale transactions;

50 A similar unit to Unit 403 located at the Real Property, unit 404, remains listed for sale, reflecting the challenges selling these units;

51 The offer from Gashut (initially from Shibeli) is the best offer received through the marketing of that unit and is acceptable to CEI;

Sealing

52 The confidential appendix to the Second Report contains a report prepared by CBRE concerning its marketing of the Level 1 Unit, together with a summary of the offers received in respect to the Level 1 Unit;

53 The sealing of the confidential appendix until the completion of sale of the Level 1 Unit or further order of the Court is appropriate to maximize recoveries in these proceedings and to maintain the integrity and confidentiality of the Retail APS Sale Process;

General

54 Rules 1.04, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*; and

55 Such further and other grounds as counsel may advise and this Honourable Court may deem just.

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

- 1 The Second Report, to be filed; and
- 2 Such further and other evidence as counsel may advise and this Court may permit.

August 20, 2024

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Lawyers for the Receiver

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MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-00715321-00CL

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

Proceeding commenced at Toronto

NOTICE OF MOTION

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TAB 2



**Second Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Mizrahi (128 Hazelton) Inc. and
Mizrahi 128 Hazelton Retail Inc.**

August 20, 2024

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COURT FILE NUMBERS: CV-24-00715321-00CL

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

B E T W E E N:

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- AND -

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RESPONDENTS

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SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

**SECOND REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

AUGUST 20, 2024

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (the “**Court**”) issued on June 4, 2024 (the “**Receivership Order**”), KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver and manager (the “**Receiver**”) of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario and legally described by the PIN numbers listed in Appendix “A” (collectively, the “**Real Property**”); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (“**Hazelton**”) and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”, together with Hazelton, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof (together with the Real Property, the “**Property**”). A copy of the Receivership Order is provided in Appendix “B”.

2. A primary purpose of these receivership proceedings is for the Receiver to realize on the Property in an efficient and orderly manner, which includes:
 - a) completing construction of certain or all of the Unfinished Units (as defined below) so that they can be sold;
 - b) marketing and selling certain unsold condominium units at Hazelton; and
 - c) conducting a stalking horse sale process (the “**Retail APS Sale Process**”) for a retail unit located on the ground floor of the Real Property together with one locker and 4 parking spaces as further described in the Retail APS (as defined below and collectively, the “**Level 1 Unit**”) in accordance with an agreement of purchase and sale dated June 14, 2024 between Constantine Enterprises Inc. (“**CEI**”) and the Receiver (the “**Stalking Horse APA**”) pursuant to which CEI agreed to purchase the Level 1 Unit for \$300,000, plus assumed liabilities (the “**Assumed Liabilities**”), including the requirement to complete the purchase of the Level 1 Unit for \$2,393,000 (subject to customary real property adjustments), in accordance with an agreement of purchase and sale dated November 29, 2016 between Retail, as purchaser, and Hazelton, as vendor, as amended and restated on June 14, 2024, and as further amended on August 9, 2024, in each case by KSV in its capacities as Receiver of Retail and Hazelton (collectively, the “**Retail APS**”).
3. On June 21, 2024, the Court issued an order (the “**Retail APS Sale Process Order**”, provided in Appendix “C”) which, among other things, approved:
 - a) the Retail APS Sale Process, as set out in the Receiver’s first report to Court dated June 14, 2024 (the “**First Report**”), a copy of which is provided in Appendix “D” (without attachments); and
 - b) the Stalking Horse APA as the stalking horse bidder. A copy of the Stalking Horse APA is provided in Appendix “E”.
4. This report (the “**Report**”) is filed by KSV in its capacity as Receiver.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) summarize the results of the Retail APS Sale Process;
 - b) summarize a proposed transaction for the sale of the Level 1 Unit pursuant to which (i) CEI will complete the Stalking Horse APA as the Successful Bidder¹, (ii) CEI will assign the right, title and interest in the Retail APS to Hazy Holdings Inc. (“**Hazy Holdings**”) pursuant to an assignment agreement dated August 20, 2024 (the “**Assignment Agreement**”) and a consent and agreement dated August 20, 2024 among CEI, Hazy Holdings and the Receiver (the “**Retail Consent Agreement**”); and (iii) Hazy Holdings will complete the purchase of the Level 1 Unit from KSV, as Receiver of Hazelton, pursuant to the Retail APS;

¹ As such term is defined in the Retail APS Sale Process.

- c) summarize the following proposed transactions (the “**Second Floor Transactions**”) for Unit 201 and Unit 204² (as defined below) located on the second floor of the Real Property (the “**Second Floor Units**”):
- i) the sale of unit 201, together with one parking spot and one locker (collectively, “**Unit 201**”) pursuant to an agreement of purchase and sale between Hazelton and CEI dated December 8, 2016, as amended (the “**201 APS**”);
 - ii) the sale of suite 204 (formerly unit 205), together with three parking spots, and one locker (collectively, “**Unit 204**”) pursuant to an agreement of purchase and sale between Hazelton and CEI dated December 8, 2016, as amended (the “**204 APS**” and with the 201 APS, the “**Second Floor APAs**”);
- d) summarize a proposed sale for unit 403 located at the Real Property, together with two parking spots and one locker (collectively, “**Unit 403**”) to Fawzia Ahmed Gashut (“**Gashut**”) pursuant to an agreement of purchase and sale between Hazelton and CEI dated November 18, 2016, as amended (the “**403 APS**”), which was:
- i) initially assigned by CEI to Murad Shibeli (“**Shibeli**”) pursuant to an assignment of an agreement of purchase and sale between CEI and Shibeli dated July 7, 2024 (the “**403 Assignment Agreement**”) and a consent and amendment agreement among CEI, Shibeli and the Receiver (the “**403 Consent and Amendment Agreement**”) ³ including the assignment by Shibeli of her entitlement to one of the two parking spots associated with Unit 403 to CEI (the “**Assigned Parking Spot**”), which the Receiver understands Shibeli agreed to assign as partial consideration for the sale of Unit 403 APS to Shibeli; and
 - ii) subsequently assigned by Shibeli to Gashut pursuant to an amending agreement to the 403 Consent and Amending Agreement dated August 14, 2024 (the “**2nd Unit 403 Amending Agreement**”);
- e) recommend that this Court issue the following orders:
- i) in respect of the Level 1 Unit:
 - an approval and vesting order (the “**Retail AVO**”) approving the Stalking Horse APA and the sale of the Retail APS to CEI and transferring and vesting all of Retail’s right, title and interest in and to the Purchased Assets (as defined in the Stalking Horse APA) to CEI free and clear of all liens, charges, security interests and encumbrances; and

² This unit has been re-numbered. It was formerly Unit 205.

³ This document is undated. The Receiver was the third signatory and it signed this agreement on August 1, 2024.

- an approval and vesting order approving the sale of the Level 1 Unit by the Receiver, on behalf of Hazelton, to Hazy Holdings and transferring and vesting all of the right, title and interest of Hazelton in and to the Level 1 Unit to Hazy Holdings free and clear of all liens, charges, security interests and encumbrances;
- ii) in respect of the Second Floor Units, an order approving the sale of the Second Floor Units to CEI and transferring and vesting all of the right, title and interest of Hazelton in and to the Second Floor Units to CEI free and clear of all liens, charges, security interest and encumbrances; and
 - iii) in respect of Unit 403, an order (the “**Unit 403 AVO**”) approving the sale of Unit 403 to Gashut (following the assignment of the 403 APS from CEI to Shibeli and from Shibeli to Gashut) and transferring and vesting all of the right, title and interest of Hazelton (a) in and to Unit 403 (other than the Assigned Parking Spot) to Gashut free and clear of all liens, charges, security interest and encumbrances; and (b) in and to the Assigned Parking Spot to CEI free and clear of all liens, charges, security interest and encumbrances;
- f) sealing the CBRE Report and Offer Summary, as each is defined in Section 3 below; and
 - g) summarizing the Receiver’s activities since the date of the First Report.

1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon (i) discussions and information provided by representatives of CEI; (ii) the Debtors’ unaudited financial information; (iii) the receivership application materials filed by CEI; and (iv) information provided by CBRE Limited (“**CBRE**”), the listing agent for the Level 1 Unit, regarding the sale of that unit (collectively, the “**Information**”).
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Report by any party.
3. Additional background information regarding the Debtors and the reasons for the appointment of the Receiver is provided in affidavits of Robert Hiscox sworn February 23, 2024 and April 16, 2024, as well as in the First Report. Copies of the Court materials filed in these proceedings are available on the Receiver’s case website at: <https://www.ksvadvisory.com/experience/case/128Hazelton>.

1.3 Currency

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

2.0 Background

1. Hazelton is the registered owner of the Real Property, which is a nearly complete nine-storey, 20-unit luxury condominium development project located in Toronto's Yorkville neighbourhood and has approximately 1,993 square feet of ground floor commercial retail space (being the Level 1 Unit), and three levels of underground parking.
2. Hazelton is currently the registered owner of seven condominium units (201, 204, 403, 404, 801, 802 and 901), the Level 1 Unit, and several parking spaces and lockers allocated to the respective units and the retail space.
3. The shares in the capital of Hazelton are owned 50% by Mizrahi Developments Inc. ("**MDI**") and 50% by CEI. MDI is controlled by Sam Mizrahi.
4. Mr. Mizrahi was the President of Hazelton and one of two directors of Hazelton until he resigned on May 13, 2024. Mr. Hiscox, a nominee of CEI, is the other director. Mr. Mizrahi is also the principal of the Mizrahi development group of companies, a condominium development group (the "**Mizrahi Group**"). The Mizrahi Group was CEI's operating and development counterpart in connection with the development of the Hazelton Project. Prior to these proceedings, the development and construction management of Hazelton was performed by Mizrahi Inc.
5. Hazelton is the borrower under the DUCA Commitment, the 2015 Credit Agreement, the 2020 Grid Note and the 2021 Grid Note (each as defined in Section 3.0 of the First Report), each of which is owed to CEI. Prior to these proceedings, CEI took an assignment of the DUCA Commitment. The DUCA Commitment is the senior ranking mortgage on the Real Property.
6. At the start of the receivership proceedings, construction had not been completed for units 801, 802 and 901 (the "**Unfinished Units**"). Gillam Communities LP ("**Gillam**") was retained by the Receiver as the construction manager. Construction on units 801 and 802 is now underway. Various issues need to be resolved concerning unit 901 before decisions can be made as to how to best monetize that unit, including whether to advance construction of it. The issues concerning unit 901 are not the subject of this Report and are likely to be addressed in a subsequent report.

2.1 Retail

1. The Receiver understands that the shares of Retail are owned by Mr. Mizrahi or his designee.
2. Retail's only known asset is the Retail APS. Pursuant to the Retail APS, Retail is entitled to purchase the Level 1 Unit for \$2,393,000.

3. As set out above, on June 14, 2024, the original Retail APS was amended and restated by KSV as Receiver of Retail and Hazelton to facilitate the sale of the Retail APS. The changes to the Retail APS provide, among other things, that the Level 1 Unit is to be sold on an “as is, where is basis”. The amendments did not change the purchase price. The Retail APS was amended pursuant to an amendment agreement entered into between the Receiver and Hazelton on August 9, 2024 (the “**Retail Amending Agreement**”) to correct the legal description of certain parking spots in the Retail APS. The Retail APS was appended to the First Report. A copy of the of the Retail Amending Agreement is provided in Appendix “F”.
4. Additional background information regarding Retail and the Retail APS are provided in Section 2.2 of the First Report.

3.0 Retail APS Sale Process

1. The Retail APS is detailed in Section 5 of the First Report and is not repeated herein.
2. CBRE was retained by the Receiver to market the Level 1 Unit for sale pursuant to the Retail APS Sale Process Order. A description of the Retail APS Sale Process is provided in Section 5.1 of the First Report.
3. CBRE launched the Sale Process on June 24, 2024. CBRE’s marketing efforts included:
 - a) posting the listing on the multiple listing service and providing marketing material to over 3,000 prospective purchasers and to CBRE’s database of 500 brokers;
 - b) marketing the listing on social media and advertising the opportunity in *The Globe and Mail* newspaper on July 2 and 4, 2024;
 - c) placing signage on the front windows of the Level 1 Unit;
 - d) making information available to interested parties in a virtual data room provided they first sign a confidentiality agreement; and
 - e) arranging tours of the Level 1 Unit and responding to due diligence requests from interested parties.
4. The Receiver prepared a template agreement of purchase and sale (the “**Template APS**”) based on the Stalking Horse APA. CBRE uploaded the Template APS to the virtual data room so that it would be available to prospective purchasers. Prospective purchasers were encouraged to submit offers in the form of the Template APS with any changes blacklined.

5. Fifteen parties conducted due diligence on the opportunity. CBRE advised interested parties that bids were to be submitted no earlier than July 24, 2024⁴.
6. Three offers were submitted on or following the Bid Deadline (as defined in the Retail APS Sale Process), none of which satisfied the requirements to be a Qualified Bid (as defined in the First Report). None of the bids was for more than the value of the Stalking Horse APA (being a total of \$2,693,000, comprised of \$300,000 under the Stalking Horse APA and \$2,393,000 under the Retail APS).
7. CEI thereafter advised the Receiver that it was prepared to close on the Stalking Horse APA and to assign the Retail APS to the bidder with the best offer in the Retail APS Sale Process for an amount less than Assumed Liabilities, being the purchase price for the Level 1 Unit (\$2,393,000). The Receiver advised CEI that it was prepared to consider such a transaction provided that KSV, as the Receiver of Hazelton, receive \$2,393,000 for the Level 1 Unit.
8. The Receiver, CEI, CBRE and Hazy Holdings, being the party who submitted the best offer in the Retail APS Sale Process, thereafter, negotiated a transaction, pursuant to which:
 - a) CEI will complete the Stalking Horse APA for the purchase price of \$300,000 by way of a credit bid;
 - b) CEI will assign the right, title and interest in the Retail APS to Hazy Holdings pursuant to the Assignment Agreement;
 - c) Hazy Holdings will complete the purchase of the Level 1 Unit pursuant to the Retail APS for \$2,300,000;
 - d) CEI will pay \$93,000, by way of credit bid, being the difference between the Assumed Liabilities under the Retail APS and the amount of Hazy Holdings' offer; and
 - e) Court approval is to be sought within fourteen (14) calendar days of the transaction being selected as the successful bid in the Sale Process or such other date as agreed with Hazy Holdings.
9. The Receiver is not a party to the Assignment Agreement. A copy of the Assignment Agreement and the Retail Consent Agreement are provided in Appendix "G" for information purposes.

⁴ The Retail APS Sale Process Order required a bid deadline approximately 30 days from the commencement of the process. CBRE asked for bids no earlier than July 24, 2024, and accordingly, some bids were received following the bid deadline. The Receiver has been advised that neither CBRE nor CEI shared the details of any offer with any bidder that participated in the process following the deadline.

10. A copy of a report prepared by CBRE concerning its marketing of the Level 1 Unit together with a summary of the offers received (the “**CBRE Report and Offer Summary**”) is provided in Confidential Appendix “1”. For the reasons provided in Section 5 below, the Receiver recommends that the CBRE Report and Offer Summary be sealed until a sale of the Level 1 Unit is completed or further order of the Court.

3.1 Stalking Horse APA

1. The Stalking Horse APA was summarized in the First Report, the relevant parts of which are provided below.
2. The key terms and conditions of the Stalking Horse APA are provided below⁵.
 - a) Purchaser: CEI
 - b) Purchased Assets: All of Retail’s right, title and interest in the Retail APS.
 - c) Excluded Assets: The Seller shall not sell to the Purchaser and the Purchaser shall not purchase from the Seller any assets other than the Purchased Assets.
 - d) Purchase Price: The Purchase Price under the Stalking Horse APA is comprised of (i) \$300,000 owing by the Purchaser to Retail on Closing (which is to be satisfied by way of credit bid of a portion of the amount owing by Retail to the Purchaser); and (ii) the amount of the Assumed Liabilities as of Closing, which includes the obligation to purchase the Level 1 Unit for \$2,393,000, subject to customary adjustments for a transaction of this nature.
 - e) Assumed Liabilities: The Purchaser shall assume as of the Closing Date and shall pay, discharge and perform, as the case may be, from and after the Closing Date, all liabilities and obligations of Retail arising in respect of the Retail APS (collectively, the “**Assumed Liabilities**”). The Purchaser covenants to close the transaction under the Retail APS immediately after Closing.
 - f) Closing Date: No later than the day that is 10 days after the date on which the Court grants the Sale Approval and Vesting Order.
 - g) Material Conditions: The material conditions, unless waived, are as follows:
 - i. no legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets;
 - ii. all conditions to closing to purchase the Unit (as defined in the amended Retail APS) under the amended Retail APS (subject to the release of any signed documents from escrow) shall have been either satisfied or waived;
 - iii. the Court shall have issued the Sale Process Order by no later than June 21, 2024; and

⁵ Capitalized terms not otherwise defined are defined in the Stalking Horse APA.

- iv. the Court shall have granted the Sale Approval and Vesting Order by no later than 14 calendar days following the transaction being selected as the Successful Bid.
- h) Acceptance of the Successful Bid: The sale of the Purchased Assets to any Successful Bidder by the Receiver is conditional upon the approval of the Successful Bid by the Court.

3.2 Retail APS

1. A summary of the Retail APS (as amended by the Assignment Agreement) is as follows:
 - a) Purchaser: Hazy Holdings
 - b) Purchased Assets: Level 1 Unit
 - c) Purchase Price: \$2,393,000, subject to customary adjustments for a real estate transaction.
 - d) Closing Date: No later than 10 days after the Court grants the Sale Approval and Vesting Order.
 - e) Material Conditions: None, other than Court approval, pursuant to the terms of the Assignment Agreement.

4.0 Recommendation Re Retail APS Transaction and the Level 1 Unit Transaction

1. The Receiver recommends that the Court issue the Retail AVO for the following reasons:
 - a) the Retail APS Sale Process was carried out on a basis consistent with the Retail APS Sale Process Order, with the exception noted in footnote 4, which the Receiver does not believe had any effect on the results of the Retail APS Sale Process;
 - b) CBRE (i) has extensive experience selling retail real estate in the Greater Toronto Area (particularly this listing team), (ii) advertised the Level 1 Unit through conventional methods for a listing of this nature; (iii) performed a wide canvassing of the opportunity; and (iv) directly solicited parties which it believed may have an interest in this opportunity;
 - c) the Level 1 Unit was marketed for a sufficient amount of time to canvass the market, which timeframes were established by the Retail APS Sale Process Order;
 - d) CBRE does not believe that a superior offer is likely to be generated from a continued marketing of the Level 1 Unit;
 - e) Hazy Holdings' offer was the best offer received in the Retail APS Sale Process;

- f) CEI, Hazelton's primary secured creditor and Retail's only secured creditor, consents to the Level 1 Unit Transaction; and
- g) the same economic outcome is being achieved by completing the Stalking Horse APA and the sale to Hazy Holdings as would be achieved by completing the transactions contemplated by the Stalking Horse APA.

5.0 Sealing

1. The Receiver recommends that the CBRE Report and Offer Summary be filed with the Court on a confidential basis and remain sealed pending further order of the Court or upon the completion of sale of the Level 1 Unit as making the purchase price publicly available may negatively impact the sale of the Level 1 Unit if the sale to Hazy Holdings does not close.
2. Sealing this information until the completion of the sale of the Level 1 Unit or further Order of the Court is necessary to maximize recoveries in these proceedings and to maintain the integrity and confidentiality of the Retail APS Sale Process.
3. The salutary effects of sealing such information from the public record outweigh the deleterious effects of doing so under the circumstances. The Receiver is of the view that sealing the Confidential Appendices is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25. Accordingly, the Receiver believes the proposed sealing of the Confidential Appendices is appropriate in the circumstances.

6.0 Second Floor Transactions

1. As noted above, the Second Floor APAs were executed on December 8, 2016 between Hazelton and CEI. The Second Floor APAs were amended on August 7, 2024 to reflect, among other things, that the Second Floor Units are being conveyed on an "as is where is" basis with no further work by the vendor required. Copies of the 201 APS and 204 APS and their respective amendments, are provided in Appendices "H" and "I", respectively.
2. Units 201 and 204 were completed as office space and are presently occupied by CEI for this purpose.
3. CEI provided the Receiver with an appraisal of the Second Floor Units prepared by Simon & Associates Ltd. ("**Simon**") dated July 26, 2024 (the "**Simon Appraisal**"). Simon was retained by Royal Bank of Canada, CEI's lender. According to the Simon Appraisal, the current market value of the Second Floor Units is \$3.2 million versus the combined purchase price of \$3.196 million pursuant to the Second Floor APAs. A copy of the Simon Appraisal is provided in Appendix "J".
4. CEI intends to complete the purchase of the Second Floor APAs immediately following Court approval of those transactions, if approved. CEI has advised that it intends to pay the purchase price by credit bidding a portion of Hazelton's indebtedness owing to it. CEI has provided the Receiver with a written undertaking (the "**Undertaking**") to pay any and all amounts that rank in priority to it, as required by the Receiver. A copy of the Undertaking is provided in Appendix "K".

6.1 Recommendation re Second Floor Units

1. The Receiver recommends that the Court approve the Second Floor Transactions, as:
 - a) the Second Floor APAs are unconditional and can be closed immediately following Court approval, if the Court approves the Second Floor Transactions;
 - b) the Second Floor Units are presently occupied by CEI and there is no basis, in the Receiver's opinion, on which the Second Floor APAs could be terminated in circumstances where the units are completed, occupied, there are no closing conditions and the purchase price is consistent with market, based on an arm's length appraisal;
 - c) a marketing process for the Second Floor Units would result in professional fees and transaction costs, meaning that the purchase price for the Second Floor Units would need to significantly exceed the purchase price pursuant to the Second Floor APAs; and
 - d) CEI, as assignee of the DUCA Commitment, is the creditor that would most directly benefit from a superior transaction. CEI consents to the completion of the sale of the Second Floor Transactions in accordance with the Second Floor APAs.

7.0 Unit 403 Transaction

1. Unit 403 is a completed residential condominium⁶. CEI entered into an agreement of purchase and sale dated November 18, 2016, as amended, to purchase the condominium from Hazelton for \$2,208,800. CEI also paid \$103,680 for upgrades.
2. As noted above, the Receiver has been advised by CEI that as partial consideration for the assignment of the Unit 403 purchase agreement, it was agreed that one of the two parking spots associated with Unit 403 would be assigned to CEI.
3. Prior to these proceedings, CEI retained Ferrow Real Estate Inc. ("**Ferrow**") to list Unit 403, and a similar unit, Unit 404⁷ for sale. Mr. Hiscox and Ed Rogers indirectly own an interest in Ferrow. Unit 403 was initially listed for sale by Ferrow in January 2022 and has also been listed for sale since that date.
4. Unit 404 remains available for sale and is subject to an agreement of purchase and sale with Mr. Hiscox. Unit 404 was first listed for sale by Ferrow at \$3.25 million in January 2023, was most recently listed in May 2024 at \$2.75 million and is currently on the market.

⁶ Although construction is complete, a pre-delivery inspection has not yet been completed for unit 403.

⁷ This unit has been re-numbered. It was formerly unit 405.

5. Ferrow is familiar with Hazelton, through its relationship with CEI’s executives. Ferrow also previously sold units 401, 402 and 601 (each of which were arm’s length transactions) at Hazelton and is currently listing units 801 and 802.
6. The 403 Unit transaction was identified through Ferrow’s marketing efforts. The Receiver understands that Gashut and Shibeli are related. Pursuant to the 403 Assignment Agreement and the Amended Consent, CEI has agreed to assign its interest in the 403 APS to Gashut for \$2.45 million. A deposit in respect of this transaction in the amount of \$121,000 is presently being held in trust by Ferrow. A copy of the 403 APS and the 403 Assignment Agreement are provided in Appendix “L”.
7. Pursuant to the 403 APS, as amended by the 403 Consent and Amendment Agreement (which is provided in Appendix “M”) and 2nd Unit 403 Amending Agreement (which is provided in Appendix “N”):
 - a) Unit 403 is being purchased in its current state, on an “as is, where is” basis and the Receiver is not required to perform additional work;
 - b) Unit 403 is being sold without any material representations, on terms consistent with an insolvency transaction;
 - c) title to one of Unit 403’s parking spots will be assigned to CEI; and
 - d) the sale of Unit 403 is subject to Court approval; and
 - e) the Receiver is required to use its commercially reasonable efforts to seek Court approval of the sale on or before August 19, 2024, subject to Court availability.
8. The 403 APS is consistent with standard form condominium sale agreements.
9. Unit 403 is 1,488 square feet. Based on a purchase price of \$2,450,000, the purchase price per square foot is \$1,647, which is in the range of recent comparable sale transactions, as provided in the table below.

Address	Date of Sale	Selling Price (\$)	Square Feet	Price/SF (\$)
Unit 403		2,450,000	1,488	1,647
346 Davenport Unit 701	April 2024	2,725,000	2,100	1,298
1 Bedford Rd Unit 1505	April 2024	3,237,000	1,627	1,990
616 Avenue Unit 703	April 2024	2,113,000	1,700	1,243
346 Davenport Unit 702	March 2024	2,700,000	2,112	1,278
336 Spadina Rd Unit 1002	February 2024	2,830,000	2,311	1,225
337 Madison Unit PH707	January 2024	2,095,000	1,292	1,622

7.1 Recommendation

1. The Receiver recommends the Court issue the Unit 403 AVO for the following reasons:
 - a) Unit 403 was originally listed for sale by Ferrow in January 2022 and has been listed for sale since that time;
 - b) Unit 404 is similar to Unit 403, was initially listed for sale in January 2023 and remains listed for sale;
 - c) the stigma associated with Hazelton's receivership proceedings is unhelpful to maximizing value for the unsold units at this time, including for Unit 403;
 - d) the transaction for Unit 403 resulted from the best offer received through Ferrow's marketing efforts for Unit 403; and
 - e) the Gashut offer is acceptable to CEI, as assignor of the 403 APS and as secured creditor.

8.0 Receiver's Activities

1. The Receiver's activities since the commencement of these proceeding include:
 - a) corresponding extensively with CEI, Cassels Brock & Blackwell LLP, CEI's counsel, and Norton Rose Fulbright Canada LLP ("**Norton Rose**"), its counsel, regarding aspects of these receivership proceedings;
 - b) corresponding with Tarion Warranty Corporation and its counsel, Torys LLP, regarding deposit insurance coverage, deficiency claims and other matters;
 - c) corresponding with Lash Condo Law LLP, the Receiver's condominium counsel, regarding condominium law matters;
 - d) corresponding extensively with ICC Property Management Ltd., the property manager, regarding maintenance, warranty, condo fees and other matters;
 - e) attending with Norton Rose at Hazelton's annual condominium corporation meeting;
 - f) dealing with CEI and Gillam;
 - g) terminating the Development Management Agreement with Mizrahi Inc. and demanding repayment of the unearned portion of development fees paid to it (\$500,000);
 - h) corresponding with MDI regarding numerous information requests and reviewing the information provided;
 - i) corresponding with Masters Insurance Limited, Hazelton's insurance broker, regarding insurance coverage;

- j) corresponding with CBRE and CEI regarding the marketing process for the Level 1 Unit;
- k) dealing with the offers received for the Level 1 Unit, including dealing with Hazy Holdings and its legal counsel;
- l) dealing with issues related to the Second Floor Units and Unit 403, including the sale of each;
- m) dealing with issues related to the sale of units 801, 802 and 901;
- n) reviewing and commenting on correspondence between Norton Rose and Dickinson Wright LLP, counsel to the purchaser of unit 901;
- o) dealing with CEI regarding funding for the receivership;
- p) preparing the First Report, this Report and reviewing and commenting on the motion materials in respect of same;
- q) responding to emails and calls from creditors;
- r) documenting at the start of these proceedings, through pictures and video, the state of certain parts of the Real Property;
- s) preparing the notice and statement of receiver pursuant to sections 245 and 246 of the *Bankruptcy and Insolvency Act*; and
- t) maintaining the case website.

9.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make orders granting the relief requested in this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Appendix “A”

Schedule "A"**DESCRIPTION OF REAL PROPERTY****PIN 21196-0353(LT)**

PART LOT 1, PLAN 687E & PART BLOCK A, PLAN 411 PART 1, 66R32656; SUBJECT TO AN EASEMENT AS IN AT4864056; SUBJECT TO AN EASEMENT AS IN AT5237797; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 1 AND 2, PLAN 687-E DESIGNATED AS PART 1 ON PLAN 66R-31612 AS IN AT5927858; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER PART TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 BEING PART 3, 66R32656 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS ON LEVELS 1 & A AND UNITS 8, 9, 10, 12 & 13, LEVEL A TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; CITY OF TORONTO

PIN 76967-0001(LT)

UNIT 1, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0004(LT)

UNIT 4, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0011(LT)

UNIT 3, LEVEL 4, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0012(LT)

UNIT 4, LEVEL 4, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0018(LT)

UNIT 1, LEVEL 8, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0019(LT)

UNIT 2, LEVEL 8, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0020(LT)

UNIT 1, LEVEL 9, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0024(LT)

UNIT 4, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0025(LT)

UNIT 5, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0026(LT)

UNIT 6, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0027(LT)

UNIT 7, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0034(LT)

UNIT 2, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0035(LT)

UNIT 3, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0036(LT)

UNIT 4, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0037(LT)

UNIT 5, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0038(LT)

UNIT 6, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0041(LT)

UNIT 9, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0042(LT)

UNIT 10, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0043(LT)

UNIT 11, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0045(LT)

UNIT 13, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0046(LT)

UNIT 14, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0047(LT)

UNIT 15, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0048(LT)

UNIT 16, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0057(LT)

UNIT 9, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0058(LT)

UNIT 10, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0059(LT)

UNIT 11, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0060(LT)

UNIT 12, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0062(LT)

UNIT 14, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0065(LT)

UNIT 17, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0067(LT)

UNIT 19, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0073(LT)

UNIT 25, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0074(LT)

UNIT 26, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0076(LT)

UNIT 28, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Appendix “B”



Court File No. CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	TUESDAY, THE 4TH
)	
JUSTICE CAVANAGH	)	DAY OF JUNE, 2024

CONSTANTINE ENTERPRISES INC.

Applicant

- and -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing KSV Restructuring Inc. (“**KSV**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, over (a) the real property comprised of certain condominium units located at the address municipally known as 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario, and as legally described by PIN numbers 21196-0353 (LT), 76967-0001 (LT), 76967-0004 (LT), 76967-0011 (LT), 76967-0012 (LT) inclusive, 76967-0018 (LT) to 76967-0020 (LT) inclusive, 76967-0024 (LT) to 76967-0027 (LT) inclusive, 76967-0034 (LT) to 76967-0038 (LT)

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inclusive, 76967-0041 (LT) to 76967-0043 (LT) inclusive, 76967-0045 (LT) to 76967-0048 (LT) inclusive, 76967-0057 (LT) to 76967-0060 (LT) inclusive, 76967-0062 (LT), 76967-0065 (LT), 76967-0067 (LT) inclusive, 76967-0073 (LT), 76967-0074 (LT), and 76967-0076 (LT), as more specifically described in Schedule “A” hereto (the “**Real Property**”); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc. (collectively, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof (the “**Personal Property**”, and together with the Real Property, the “**Property**”), was heard on May 13, 2024 by judicial videoconference at Toronto, Ontario.

ON READING the Affidavits of Robert Hiscox sworn February 22 and April 16, 2024, the Affidavits of Sam Mizrahi affirmed April 5, April 8, April 23, and May 3, 2024, the Affidavit of Jeff Stevenson sworn April 5, 2024, and in each case the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel to the Debtors and such other parties listed on the Counsel Slip, no one appearing although duly served as appears from the Affidavits of Service of Stephanie Fernandes sworn February 23, February 26 and February 27, 2024 and on reading the consent of KSV to act as the Receiver,

SERVICE

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

APPOINTMENT

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

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, including without limitation the Debtors' bank accounts related to the Property wherever located;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, or either of them, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform or disclaim any contracts of the Debtors, or either of them, in respect of the Property;
- (d) to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

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- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors, or either of them with respect to the Property or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors, or either of them with respect to the Property and to exercise all remedies of the Debtors, or either of them, in collecting such monies, including, without limitation, to enforce any security held by the Debtors, or either of them;
- (g) to take steps to commence a process to confirm the deposit amounts, if any, being held by the Debtors, or either of them, pursuant to agreements of purchase and sale between the Debtors, or either of them, and a purchaser for the sale and purchase of a residential condominium unit planned to be situated at the development located on the Real Property;
- (h) to settle, extend or compromise any indebtedness owing to the Debtors, or either of them, with respect to the Property;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, or either of them, for any purpose pursuant to this Order;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, or either of them, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

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- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required.
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

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- (o) to consult with the Applicant on all matters relating to the Property and the receivership, subject to such terms as to confidentiality as the Receiver deems advisable;
- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) to apply for any permits, licences, approvals or permissions with respect to the Property as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors, or either of them;
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, or either of them, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors, or either of them;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtors, or either of them may have; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, or either of them, and without interference from any other Person.

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DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and equity investors including without limitation investors and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, or either of them, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully

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copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that all Persons, including without limitation, Sam Mizrahi, 1000041090 Ontario Inc., Mizrahi Developments Inc. and Mizrahi Inc. (collectively, the “**Mizrahi Group**”), and each of them, shall be required to cooperate, and share information, with the Receiver, in connection with all books and records, contracts, agreements, permits, licenses and insurance policies and other documents in respect of the Debtors, or either of them, and the Property. In addition to the foregoing, general cooperation and information sharing requirements, the Mizrahi Group, or any of them, shall be required to do the following: (a) in respect of any and all such contracts, agreements, permits, licenses and insurance policies and other documents: (1) maintain them in good standing and provide immediate notice and copies to the Receiver of any communications received from regulators or providers in respect thereof; (2) provide immediate notice to the Receiver of any material change and/or pending material change to the status quo in respect thereof; and (3) provide thirty (30) days’ written notice to the Receiver of any renewal date, termination date, election date or similar date in respect thereof; and (b) assist, and cooperate with, the Receiver in obtaining any further permits and licenses that may be required in the Receiver’s discretion, acting reasonably, in consultation with the Applicant.

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NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors, or either of them, or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors, or either of them, or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtors, or either of them, the Receiver, or affecting the Property, including without limitation, licenses and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors, or either of them, to carry on any business which the Debtors, or either of them, is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors, or either of them, from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. Notwithstanding paragraph 9 and paragraph 10 of this Order, Toronto Standard Condominium Corporation No. 2967 ("**TSCC 2967**") is authorized to return to this Court on five days' notice to seek leave to commence enforcement proceedings in respect of a lien registered by TSCC 2967, pursuant to section 85 of the *Condominium Act, 1998*, against any portion of the Real Property.

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NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, or either of them, in connection with or relating to the Property without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons, including, without limitation, the Mizrahi Group, having oral or written agreements with the Debtors, or either of them, in connection with or relating to the Property or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors, or either of them, in connection with or relating to the Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors', or either of their current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors, or either of their, or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part in connection with or relating to the

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Property, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors, or either of them, shall remain the employees of such Debtor until such time as the Receiver, on behalf of the Debtors, or either of them, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

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

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

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RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may

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arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, fees, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

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

25. **THIS COURT ORDERS** that the Applicant shall for the duration of the receivership provide sufficient funds to the Receiver to pay in the ordinary course the monthly common expense fees owing to TSCC 2967 by Mizrahi (128 Hazelton) Inc., including relating to the Real Property.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that The Guide Concerning Commercial List E-Service (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of

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documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL <https://www.ksvadvisory.com/experience/case/128Hazelton>.

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

GENERAL

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

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a Trustee in bankruptcy of the Debtors, or either of them.

30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give

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effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

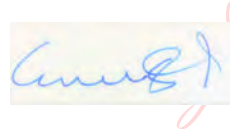
31. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. **THIS COURT ORDERS** that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors, or either of their estates with such priority and at such time as this Court may determine.

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

34. **THIS COURT ORDERS** that this Order is effective from today's date and it is not required to be entered.

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Mr. Justice
Cavanagh

Schedule "A"**DESCRIPTION OF REAL PROPERTY****PIN 21196-0353(LT)**

PART LOT 1, PLAN 687E & PART BLOCK A, PLAN 411 PART 1, 66R32656; SUBJECT TO AN EASEMENT AS IN AT4864056; SUBJECT TO AN EASEMENT AS IN AT5237797; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 1 AND 2, PLAN 687-E DESIGNATED AS PART 1 ON PLAN 66R-31612 AS IN AT5927858; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER PART TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 BEING PART 3, 66R32656 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS ON LEVELS 1 & A AND UNITS 8, 9, 10, 12 & 13, LEVEL A TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; CITY OF TORONTO

PIN 76967-0001(LT)

UNIT 1, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0004(LT)

UNIT 4, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0011(LT)

UNIT 3, LEVEL 4, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0012(LT)

UNIT 4, LEVEL 4, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0018(LT)

UNIT 1, LEVEL 8, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0019(LT)

UNIT 2, LEVEL 8, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0020(LT)

UNIT 1, LEVEL 9, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0024(LT)

UNIT 4, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0025(LT)

UNIT 5, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0026(LT)

UNIT 6, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0027(LT)

UNIT 7, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0034(LT)

UNIT 2, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0035(LT)

UNIT 3, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0036(LT)

UNIT 4, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0037(LT)

UNIT 5, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0038(LT)

UNIT 6, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0041(LT)

UNIT 9, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0042(LT)

UNIT 10, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0043(LT)

UNIT 11, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0045(LT)

UNIT 13, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0046(LT)

UNIT 14, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0047(LT)

UNIT 15, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0048(LT)

UNIT 16, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0057(LT)

UNIT 9, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0058(LT)

UNIT 10, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0059(LT)

UNIT 11, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0060(LT)

UNIT 12, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0062(LT)

UNIT 14, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0065(LT)

UNIT 17, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0067(LT)

UNIT 19, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0073(LT)

UNIT 25, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0074(LT)

UNIT 26, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0076(LT)

UNIT 28, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

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SCHEDULE "B"**RECEIVER CERTIFICATE**

CERTIFICATE NO. ●

AMOUNT \$ ●

1. **THIS IS TO CERTIFY** that KSV Restructuring Inc., the receiver and manager (the "**Receiver**") without security, of (a) the real property comprised of certain condominium units located at the address municipally known as 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario, and as legally described by PIN numbers 21196-0353 (LT), 76967-0001 (LT), 76967-0004 (LT), 76967-0011 (LT), 76967-0012 (LT) inclusive, 76967-0018 (LT) to 76967-0020 (LT) inclusive, 76967-0024 (LT) to 76967-0027 (LT) inclusive, 76967-0034 (LT) to 76967-0038 (LT) inclusive, 76967-0041 (LT) to 76967-0043 (LT) inclusive, 76967-0045 (LT) to 76967-0048 (LT) inclusive, 76967-0057 (LT) to 76967-0060 (LT) inclusive, 76967-0062 (LT), 76967-0065 (LT), 76967-0067 (LT) inclusive, 76967-0073 (LT), 76967-0074 (LT), and 76967-0076 (LT) (the "**Real Property**"); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc. (collectively, the "**Debtors**"), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof (the "**Personal Property**", and together with the Real Property, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of _____, 2024 (the "**Order**") made in an application having Court file number CV-24-24-00715321-00CL has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the ___ day of each

-6-

month] after the date hereof at a notional rate per annum equal to the rate of ___ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

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

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

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

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

DATED the ____, day of _____, 2024.

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

Per:

Name: Bobby Kofman
Title: Managing Director

CONSTANTINE ENTERPRISES INC.

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.
Respondents

- and -

Applicant

Court File No. CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(APPOINTING RECEIVER)**

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Lawyers for the Applicant

Appendix “C”



Court File No.: CV-24-715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

FRIDAY, THE 21st DAY

JUSTICE W.D. BLACK

)

OF JUNE, 2024

)

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

**ORDER
(RETAIL APS SALE PROCESS)**

THIS MOTION, made by **KSV Restructuring Inc.** (“**KSV**”), in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (“**Hazelton**”) and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”, together with Hazelton, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof (collectively, the “**Property**”), for an Order, among other things, approving a sale process was heard this day at 330 University Ave, Toronto, Ontario.

ON READING the Motion Record in respect of this motion including the First Report of the Receiver dated June 14, 2024 (the “**First Report**”), filed;

AND UPON hearing the submissions of counsel for the Receiver, counsel for Constantine Enterprises Inc. (“**CEI**”), and such other counsel who were present, no one else appearing although duly served as appears from the affidavits of service of Katie Parent sworn June 14 and June 18, 2024, filed.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the First Report.

RETAIL APS SALE PROCESS

3. **THIS COURT ORDERS** that the Retail APS Sale Process is hereby approved and the Receiver is hereby authorized to implement the Retail APS Sale Process pursuant to the terms thereof. The Receiver is hereby authorized to perform all things reasonably necessary to carry out the Retail APS Sale Process.
4. **THIS COURT ORDERS** that the Receiver shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the Retail APS Sale Process, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or willful misconduct of the Receiver in performing its obligations under the Retail APS Sale Process, as determined by this Court.

STALKING HORSE APA

5. **THIS COURT ORDERS** that the agreement of purchase and sale dated as of June 14, 2024 (the “**Stalking Horse APA**”) between the Receiver and CEI (the “**Stalking Horse APA**”) is hereby approved solely as the stalking horse bid in the Retail APS Sale Process, provided that, nothing herein approves: (i) the acceptance and/or execution of the Stalking Horse APA by the Receiver; or (ii) the sale and the vesting of any Property to the Stalking Horse Bidder pursuant to the Stalking Horse APA, and the approval and acceptance and execution of the Stalking Horse APA and/or any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court.

GENERAL

6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Receiver, and its agents, in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, in each case as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date it is made without any need for entry and/or filing.



CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-715321-00CL

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

Proceeding commenced at Toronto

**RETAIL APS SALE PROCESS
APPROVAL ORDER**

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Lawyers for the Receiver

Appendix “D”

**First Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Mizrahi (128 Hazelton) Inc. and
Mizrahi 128 Hazelton Retail Inc.**

June 14, 2024

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COURT FILE NUMBERS: CV-24-00715321-00CL

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

BETWEEN:

CONSTANTINE ENTERPRISES INC.

APPLICANT

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

RESPONDENTS

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

**FIRST REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

JUNE 14, 2024

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (the “**Court**”) issued on June 4, 2024 (the “**Receivership Order**”), KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver and manager (the “**Receiver**”) of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario and legally described by the PIN numbers listed in Appendix “A” (collectively, the “**Real Property**”); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (“**Hazelton**”) and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”, together with Hazelton, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof (the “**Personal Property**”, and together with the Real Property, the “**Property**”). A copy of the Receivership Order is provided in Appendix “B”.

2. The purpose of these receivership proceedings is for the Receiver to realize on the Property in an efficient and orderly manner which includes:
 - a) constructing and completing some or all of the Unfinished Units (as defined below) so that they can be sold; and
 - b) conducting a sale process for an agreement of purchase and sale effective as of November 10, 2020, as amended, (the “**Retail APS**”) pursuant to which Retail has a right to purchase a commercial retail/office unit on level 1 of the Hazelton Project (as defined below) together with four parking spaces and one locker, on the terms and conditions set out therein (the “**Level 1 Unit**”) for a purchase price of \$2,393,000, subject to customary adjustments for a transaction of this nature.
3. This report (the “**Report**”) is filed by KSV in its capacity as Receiver.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Debtors;
 - b) provide information regarding the Unfinished Units;
 - c) set out a proposed sale process (the “**Retail APS Sale Process**”) for the sale of the Retail APS and the terms of a proposed stalking horse agreement of purchase and sale dated June 14, 2024 (the “**Stalking Horse APA**”) between the Receiver and CEI; and
 - d) recommend that this Court issue an order (the “**Sale Process Order**”) approving:
 - i. the Retail APS Sale Process; and
 - ii. the Stalking Horse APA for the purposes of acting as a “stalking horse” in the Retail APS Sale Process as set out in the Stalking Horse APA.

1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon (i) discussions and information provided by representatives of Constantine Enterprises Inc. (“**CEI**”); (ii) certain of the Debtors’ unaudited financial information; and (iii) the receivership application materials filed by CEI and materials filed by the Debtors (collectively, the “**Information**”).
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Report by any party.

3. Additional background information regarding the Debtors and the reasons for the appointment of the Receiver are provided in affidavits of Robert Hiscox sworn February 23, 2024 and April 16, 2024 (the “**Hiscox Affidavits**”). Copies of the Court materials filed in these proceedings are available on the Receiver’s case website at: <https://www.ksvadvisory.com/experience/case/128Hazelton>.

2.0 Background

2.1 Hazelton

1. Hazelton is the registered owner of the Real Property, which are certain premises in relation to a nearly complete nine-storey, 20-unit luxury condominium development project located in Toronto’s Yorkville neighbourhood with approximately 1,993 square feet of ground floor commercial retail space and three levels of underground parking (the “**Hazelton Project**”).
2. Hazelton is responsible for development and construction and is currently the registered owner of seven condominium units, and one ground floor commercial retail space, and the parking spaces allocated to the units and the retail space. The development and construction management of the Hazelton Project was performed by Mizrahi Inc.
3. The shares in the capital of Hazelton are owned 50% by Mizrahi Developments Inc. (“**MDI**”) and 50% by CEI. The Receiver understands that MDI is controlled by Sam Mizrahi.
4. Mr. Mizrahi was the President of Hazelton and one of two directors of Hazelton until he resigned on May 13, 2024. Mr. Hiscox, a nominee of CEI, is the other director. Mr. Mizrahi is also the principal of the Mizrahi development group of companies, a condominium development group (the “**Mizrahi Group**”). The Mizrahi Group is CEI’s operating and development counterpart in connection with the development of the Hazelton Project.
5. Hazelton is the borrower under the DUCA Commitment, the 2015 Credit Agreement, the 2020 Grid Note and the 2021 Grid Note (each as defined below).
6. The following condominium units are under contract to be sold: 801, 802 and 901 (the “**Unfinished Units**”); however, these sales have not closed, and the Receiver intends to engage with each purchaser to address issues relevant to each transaction. Construction on each of these units has not been completed and, as discussed below, the Receiver intends to engage Gillam Communities LP (“**Gillam**”) for this purpose.

2.2 Retail

1. Retail is the purchaser of the Level 1 Unit under the Retail APS and is the borrower under the Retail Note (as defined below). The Receiver understands that the shares of Retail are owned by Mr. Mizrahi or his designee.

- The Retail APS was originally entered into between Mizrahi Inc. and Hazelton. Pursuant to an assignment agreement dated November 10, 2020, Mizrahi Inc. assigned its interest in the Retail APS to Retail. The Retail APS was amended by the Receiver to facilitate the sale of the Retail APS. The changes provide that the unit is to be sold (in its current condition) on an “as is, where is basis”. The purchase price is unchanged.
- Until recently, Mr. Mizrahi was the President and sole director of Retail. Based on a recent corporate profile report, as of March 1, 2024, Amanda Brown is the sole director and president of Retail. Attached as Appendix “C” is a copy of a corporate profile for Retail.

3.0 Creditors

3.1 Secured Creditors

- As set out below, a preliminary summary of the Debtors’ secured creditors is as follows:¹

(Unaudited; \$000s)	Amount
<u>Hazelton</u>	
Hazelton Priority Indebtedness (as defined below)	13,015,116
Aviva ²	18,500,000
Hazelton Subordinate Indebtedness (as defined below)	31,041,763
CEC Mechanical Ltd. (“ CEC ”) (construction lien)	507,658
CLM General Enterprises (“ CLM ”) (construction lien)	68,262
385277 Ontario Limited (“ 385 Ontario ”) (construction lien)	47,503
Penegal Trim & Supply Ltd. (“ Penegal ”) (construction lien)	138,765
	63,319,067
<u>Retail</u>	
Retail Indebtedness (as defined below)	2,854,278

- Norton Rose Fulbright Canada LLP (“**NRF**”), the Receiver’s independent counsel, has conducted a review of the security held in respect of the Hazelton Priority Indebtedness, the Hazelton Subordinate Indebtedness and the Retail Indebtedness. NRF has provided the Receiver with opinions that, subject to standard assumptions and qualifications, the security outlined therein is valid and enforceable.

Hazelton Priority Indebtedness

- CEI is a Toronto-based private real estate fund that has assisted in the financing of the Hazelton Project since 2015. CEI purchased and took an assignment of the Hazelton Priority Indebtedness (as defined below) from DUCA Financial Services Credit Union Ltd. (“**DUCA**”) on February 1, 2024, which commenced a receivership application against Hazelton on January 19, 2024. The DUCA receivership

¹ The amounts in the table are subject to change for interest, fees and costs, which continue to accrue.

² Aviva’s registration is discussed below.

application was dismissed following the assignment by DUCA of its rights in the DUCA Commitment and DUCA Security (as defined below) to CEI.

2. Pursuant to the terms of a commitment letter dated June 27, 2017, as amended (the “**DUCA Commitment**”), DUCA made available certain demand credit facilities to Hazelton to finance construction of the Hazelton Project in the approximate amount of \$33.5 million (the “**DUCA Loan**”).
3. As security for the DUCA Loan, DUCA obtained from Hazelton, among other things, (i) a first-ranking mortgage against its Real Property (the “**DUCA Mortgage**”); (ii) a general assignment of rents (the “**DUCA GAR**”); and (iii) a general security agreement (the “**DUCA GSA**”, and together with the DUCA Mortgage and DUCA GAR, the “**DUCA Security**”).
4. As of February 29, 2024, the amount owing under the DUCA Loan and other amounts due and owing under the DUCA Commitment and DUCA Security (collectively, the “**Hazelton Priority Indebtedness**”) was \$13,015,116, with interest and costs accruing, including certain protective advances made by CEI for overdue condominium fees on behalf of Hazelton to preserve and protect CEI’s collateral from a potential lien being registered on title to the Real Property by the Hazelton Project condominium corporation for unpaid common expenses.

Hazelton Subordinate Indebtedness

1. Pursuant to the terms of a credit agreement dated June 19, 2015, CEI also advanced a non-revolving loan facility to Hazelton in the principal amount of \$21,000,000 (the “**Hazelton Subordinate Indebtedness**”).
2. As security for the Hazelton Subordinate Indebtedness, CEI obtained from Hazelton, among other things, (i) a mortgage against its Real Property; (ii) a general assignment of rents; and (iii) a general security agreement.
3. As of February 29, 2024, the amount owing under the Hazelton Subordinate Indebtedness and other amounts due and owing under the 2015 Credit Agreement and related security was \$31,041,763, with interest and costs accruing.
4. CEI granted a subordination, assignment, postponement and standstill agreement in favour of DUCA on June 22, 2017, pursuant to which CEI subordinated its mortgage to DUCA and registered a postponement in favour of Aviva and the City of Toronto.

Retail Note

1. On November 10, 2020, Retail issued a promissory note in favour of CEI (the “**Retail Note**”) pursuant to which CEI advanced a loan to Retail in the aggregate principal amount of \$2,174,130 (the “**Retail Indebtedness**”, together with the Hazelton Priority Indebtedness and the Hazelton Subordinate Indebtedness, the “**Indebtedness**”).

2. The use of the funds advanced under the Retail Note were for Retail to make contemporaneous advances to Hazelton in the same amount (which amounts were advanced by Retail to Hazelton pursuant to the terms of a promissory note issued by Hazelton to Retail on November 10, 2020 (the “**Retail Flow-Through Note**”)).
3. As security for the Retail Note, CEI obtained i) a general security agreement by Retail (the “**Retail GSA**”); ii) an agreement between Retail and CEI pursuant to which Retail granted CEI an option to purchase the Retail APS and the Retail Flow-Through Note for one dollar in certain circumstances (which have not yet occurred) in accordance with the terms thereof (the “**Option Agreement**”); and iii) an unlimited guarantee by Mr. Mizrahi in respect of all obligations owing by Retail to CEI (the “**Retail Guarantee**” and collectively with the Retail GSA and the Option Agreement, the “**Retail Security**”).

Additional Secured Creditors

1. Based on searches dated as of June 10, 2024, the following charges are also registered against the Real Property:
 - a) a charge in favour of Aviva Insurance Company of Canada (“**Aviva**”) registered on September 22, 2016 in the maximum principal amount of \$18.5 million in respect of Hazelton’s deposit insurance indemnification obligations for homebuyers who paid deposits for units that have not yet closed;
 - b) a construction lien registered by CEC on September 29, 2023, of which \$507,658 was outstanding as of November 21, 2023;
 - c) a construction lien registered by CLM, on February 2, 2024, of which \$68,262 is outstanding;
 - d) a construction lien registered by 385 Ontario, on March 8, 2024 in the amount of \$47,502.80; and
 - e) a construction lien registered by Penegal, on May 10, 2024 in the amount of \$138,765.14.
2. Aviva entered into a priority agreement with DUCA dated June 27, 2017 pursuant to which Aviva subordinated its mortgage to the DUCA Mortgage.
3. The Receiver is continuing to review and assess the construction liens, including seeking further information from lienholders, where necessary.
4. The Receiver also understands that the following registrations were made pursuant to the *Personal Property Security Act* in Ontario:

Hazelton

- a) two registrations in favour of CEI in connection with the Hazelton Priority Indebtedness;
- b) a registration in favour of Aviva; and
- c) a registration in favour of CEI in connection with the Hazelton Subordinate Indebtedness.

Retail

- a) a registration in favour of Mizrahi Constantine (180 SAW) LP³; and
- b) two registrations in favour of CEI in connection with the Retail Indebtedness.

3.2 Other Known Creditors

1. CEI is also a creditor of Hazelton in connection with:
 - a) an unsecured promissory note issued to CEI by Hazelton on November 10, 2020 pursuant to which CEI advanced loans to Hazelton in the aggregate principal amount of \$3,200,000 (the “**2020 Grid Note**”);
 - b) an unsecured promissory note issued to CEI by Hazelton on December 3, 2021 pursuant to which CEI advanced loans to Hazelton in the aggregate principal amount of \$1,500,000 (the “**2021 Grid Note**”); and
 - c) the indebtedness relating to a construction lien previously registered on title to the Real Property in the amount of \$1,351,861, which indebtedness has been purchased by CEI.
2. According to a creditors list provided to the Receiver, Hazelton’s known unsecured creditors (other than CEI in respect of (a) and (b) above), total approximately \$4.2 million in respect of amounts owing to consultants, law firms, trade contractors and other parties.

4.0 Hazelton’s Ongoing Operations**4.1 Funding for these Proceedings**

1. The Debtors have no cash available to advance any of their business activities, including construction. Accordingly, the Receiver intends to borrow from CEI under receiver’s certificates, in accordance with paragraph 23 of the Receivership Order.

³ There are no obligations are outstanding in respect of this registration.

4.2 Project Management

1. Mizrahi Inc. was the construction manager (the “**Construction Manager**”) and the development manager of the Hazelton Project pursuant to a construction management agreement dated March 31, 2017 (the “**CM Agreement**”) and development management agreement dated June 19, 2015 (the “**DM Agreement**”), respectively. On May 10, 2024, Mizrahi Inc., as Construction Manager, delivered a notice of termination of the CM Agreement to Hazelton. As of the date of this Report, the Receiver was considering the termination of the DM Agreement. The Receiver may file a supplemental report concerning the DM Agreement prior to the return of this motion.
2. The Receiver is in discussions with Gillam to complete certain outstanding construction pursuant to the CCDC-2 Contract (the “**CCDC-2**”). The Receiver understands that CEI consents to the Receiver’s retention of Gillam for this purpose. The total cost of the work to be completed under the CCDC-2 Contract is budgeted to be approximately \$4.2 million. As of the date of this Report, the CCDC-2 has not been finalized.

5.0 Retail APS Sale Process

1. The purpose of the Retail APS Sale Process is to market for sale the Retail APS and to sell the Level 1 Unit. The Retail APS Sale Process is a stalking horse sale process, pursuant to which the Stalking Horse APA provides a base-line purchase price for the Retail APS, while also enabling the Receiver to test the market to obtain a higher selling price. The successful purchaser of the Retail APS will be required to close on the Level 1 Unit in accordance with the terms of the amended Retail APS, a copy of which is provided in Appendix “D”. The completion of the sale of the Retail APS and the Level 1 Unit is contemplated to be contemporaneous.
2. With the consent of CEI, the Receiver has engaged CBRE Limited (“CBRE”) to market the Retail APS and Level 1 Unit for sale. CBRE is a leading international real estate brokerage and is well known to the Receiver from other real estate insolvencies.
3. CBRE’s listing fee (4%) is consistent with the market for the sale of condominium units and CEI consents to the amount of the listing fee. The listing fee is a percentage of the total purchase price under the Retail APS plus the successful transaction under the Retail APS Sale Process. The listing fee is payable if CEI is the successful bidder pursuant to a credit bid. The Receiver believes CBRE’s fee is reasonable in the circumstances.
4. The Receiver understands that CEI consents to the Retail APS Sale Process.

5.1 Sale Process

1. The Retail APS Sale Process is set out in the table below. The timelines are based on KSV’s experience selling real estate assets in court-supervised proceedings, as well as guidance from CBRE. The timelines assume that the Court approves the Retail APS Sale Process on the return of this motion.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Pre-Sale Process Preparation</i>		
Retention of Agent	➤ Receiver to retain CBRE as sales agent for the Retail APS Sale Process (the “ Listing Agent ”)	Complete
Due diligence	<ul style="list-style-type: none"> ➤ Listing Agent to upload documentation concerning the opportunity to a virtual data room (the “VDR”) so that interested parties can review the Stalking Horse APA and conduct diligence on the Retail APS and the Level 1 Unit. ➤ The VDR will include information required to allow interested parties to perform due diligence, including a copy of the Stalking Horse APA and a form of agreement of purchase and sale for bid submissions (the “Bid Form”). 	To be completed within five business days of court approval of the sale process
Marketing materials	➤ The Listing Agent will prepare a document summarizing the opportunity and explaining the Sale Process, including the deadline for submitting offers, being approximately 30 days from the launch of the Retail APS Sale Process (the “ Bid Deadline ”).	
Prospect Identification	<ul style="list-style-type: none"> ➤ The Listing Agent, in consultation with the Receiver, will market the Retail APS using traditional methods to sell similar properties in the City of Toronto, including listing it on the multiple listing system (if possible), email blasts, preparation of a marketing brochure, direct solicitation and signage. ➤ The Listing Agent will advise bidders of the Stalking Horse APA and that any offer must be equal to the value of the Stalking Horse APA, plus a bid increment of \$50,000 (the “Initial Bid Increment”). 	
<i>Phase 2 – Marketing, Due Diligence and Offer Solicitation</i>		
Stage 1	➤ Market introduction	No later than June 24, 2024, subject to Court approval
Stage 2	<ul style="list-style-type: none"> ➤ Due Diligence – based on feedback from CBRE, interested parties will be provided approximately 30 days to review information in the VDR, tour the Level 1 Unit and submit an offer. ➤ Interested parties will be advised of the Bid Deadline. 	Approximately 30 days
Stage 3	<ul style="list-style-type: none"> ➤ Bids must be received on or before the Bid Deadline. ➤ To be considered a qualified bid (a “Qualified Bid”) a bid must meet the following criteria (the “Qualified Bid Criteria”): <ul style="list-style-type: none"> ○ a blackline to the Bid Form (a soft copy of the Stalking Horse APA will be made available in the VDR); ○ provide a purchase price consisting solely of cash consideration with a value of not less than \$300,000⁴ 	

⁴ This amount was determined based on discussions with CBRE.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
	<p>(being the total consideration under the Stalking Horse APA), plus the assumed liabilities, plus the Initial Bid Increment;</p> <ul style="list-style-type: none"> o include a deposit equal to the sum of 10% of the purchase price for the Retail APS (such portion of the deposit being \$239,300) and 10% of the purchase price for the Stalking Horse APA (such portion of the deposit being at least \$35,000); o not be conditional on the outcome of any further due diligence or financing; o provide the names of the representatives who are authorized to appear and act on behalf of the bidder; o provide evidence sufficient for the Receiver to determine that the bidder has the ability to complete the transaction and the subsequent purchase of the Level 1 Unit; o include acknowledgements and representations that confirm that the transaction is on an "as is, where is" basis; the bidder has had an opportunity to conduct any and all due diligence necessary prior to entering into the Qualified Bid and has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the property in making its bid; and it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the completeness of any information provided in connection therewith, except as expressly stated in the Qualified Bid; o includes a covenant that the bidder will close the transaction under the Retail APS immediately after Closing; o provides that the Qualified Bid shall remain open until the latest of (a) the date on which the Listing Agent advises the bidder that its bid is not the successful bid or the back-up bid, if one is selected; (b) in the case of the Successful Bid, the closing of the transaction; and (c) in the case of a back-up bid, if one is selected, the earlier of the closing of another successful transaction and the closing of the transaction under the back-up bid; and o include any other terms or conditions the Potential Bidder believes are material to the transaction. 	

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 3 – Offer Review and Negotiations</i>		
Selection of the Successful Bid and Back-Up Bid	<ul style="list-style-type: none"> ➤ The Stalking Horse APA shall be considered a Qualified Bid. ➤ If any additional Qualified Bids are received, the Listing Agent and the Receiver may declare one or more Qualified Bids as the successful bid and back up bid or seek further amendments or clarifications to any Qualified Bids including the Stalking Horse APA or establish further procedures for determining a successful bid and/or back-up bid, including as many rounds of bidding as determined necessary in the discretion of the Receiver. 	
Sale Approval Motion and Closing	<ul style="list-style-type: none"> ➤ Prepare materials to seek approval of the transaction. ➤ Close transaction following court approval. 	ASAP after finalizing definitive documents

2. Additional terms of the Retail APS Sale Process include:

- a) the transaction contemplated by the Stalking Horse APA will be marketed and sold on an “as-is, where-is” basis, with standard representations and warranties for a receivership transaction;
- b) the amendment to the Retail APS indicates that the sale of the Level 1 Unit would also be completed on an “as-is, where-is” basis and otherwise in accordance with the terms of the amended Retail APS;
- c) to the extent permitted by law, all of the right, title and interest of Retail in the Retail APS will be sold free and clear of all pledges, liens, security interests, encumbrances and claims, pursuant to an approval and vesting order to be sought by the Receiver;
- d) the Receiver will have the right to reject any and all offers, including the highest and best offers other than the Stalking Horse APA;
- e) if, in the Receiver’s sole discretion, it will assist to maximize recoveries, the Receiver will have the right to: (i) waive strict compliance with the terms of the Retail APS Sale Process, including the right to amend any of the deadlines in the table above; and (ii) modify and adopt such other procedures that will better promote the sale of the Retail APS or increase recoveries for stakeholders;
- f) any material modifications to, or the termination of, the Retail APS Sale Process shall require Court approval; and
- g) any transaction or transactions entered into by the Receiver shall be subject to Court approval.

5.2 The Stalking Horse APA

1. The following is a summary description of the Stalking Horse APA only. Readers are encouraged to read the entirety of the Stalking Horse APA for its terms and conditions, a copy of which is provided in Appendix “E”.
2. The key terms and conditions of the Stalking Horse APA are provided below⁵.
 - a) Purchaser: CEI.
 - b) Purchased Assets: All of Retail’s right, title and interest in the Retail APS.
 - c) Excluded Assets: The Seller shall not sell to the Purchaser and the Purchaser shall not purchase from the Seller any assets other than the Purchased Assets.
 - d) Purchase Price: The Purchase Price under the Stalking Horse APA is (i) \$300,000 owing by Retail to the Purchaser on Closing (which is to be satisfied by way of credit bid of a portion of the amount owing by Retail to the Purchaser); and (ii) the amount of the Assumed Liabilities as of Closing, which includes the obligation to purchase the Level 1 Unit for \$2,393,000, subject to customary adjustments for a transaction of this nature.
 - e) Deposit: All offers must include a deposit equal to the sum of 10% of the purchase price for the Retail APS (such portion of the deposit being \$239,300) and 10% of the purchase price for the Stalking Horse APA (such portion of the deposit being at least \$35,000).
 - f) Assumed Liabilities: The Purchaser shall assume as of the Closing Date and shall pay, discharge and perform, as the case may be, from and after the Closing Date, all liabilities and obligations of Retail arising in respect of the Retail APS (collectively, the “Assumed Liabilities”). The Purchaser covenants to close the transaction under the Retail APS immediately after Closing.
 - g) Closing Date: No later than the day that is 10 days after the date on which the Court grants the Sale Approval and Vesting Order.
 - h) Material Conditions: As follows:
 - i. no legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets;
 - ii. all conditions to closing to purchase the Unit (as defined in the amended Retail APS) under the amended Retail APS (subject to the release of any signed documents from escrow) shall have been either satisfied or waived;

⁵ Capitalized terms not otherwise defined are defined in the Stalking Horse APA.

- iii. the Court shall have issued the Sale Process Order by no later than June 21, 2024; and
 - iv. the Court shall have granted the Sale Approval and Vesting Order by no later than 14 calendar days following the transaction being selected as the Successful Bid.
- i) Acceptance of Successful Bid: The sale of the Purchased Assets to any Successful Bidder by the Receiver is conditional upon the approval of the Successful Bid by the Court.

5.3 Retail APS Sale Process Recommendation

1. The Receiver recommends that the Court issue an order approving the Retail APS Sale Process and the Stalking Horse APA as the Stalking Horse Bid for the following reasons:
 - a) the value of the Stalking Horse APA was based on the Receiver's discussions with CBRE and presents a reasonable floor price for the Retail APS, when considered in the context of the purchase price of the Level 1 Unit;
 - b) the Stalking Horse APA does not include a break fee or expense reimbursement;
 - c) the Retail APS Sale Process is reasonable and appropriate at this time and is supported by CEI, being Retail's most significant and senior ranking stakeholder;
 - d) the Retail APS Sale Process is a fair, open and transparent process developed with input from CBRE, and is intended to canvass the market broadly on an efficient basis to obtain the highest and best price;
 - e) the Retail APS Sale Process is flexible and provides the Receiver with the timelines, procedures and discretion that it believes are necessary to maximize value;
 - f) the CBRE marketing process includes procedures commonly used to sell real estate assets, including by KSV in other court-supervised real property sale processes; and
 - g) CBRE is a leading national brokerage, with the experience and expertise to market the Retail APS, including significant knowledge of the Toronto market in which the Hazelton Project is located.

6.0 Conclusion

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

* * *

All of which is respectfully submitted,



**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Appendix “E”

AGREEMENT OF PURCHASE AND SALE**CONSTANTINE ENTERPRISES INC.****and****KSV RESTRUCTURING INC., solely in its capacity as court-appointed receiver and
manager of Mizrahi 128 Hazelton Retail Inc. and not in its personal capacity****June 14, 2024**

THIS AGREEMENT is made as of the 14th day of June, 2024.

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

(hereinafter referred to as the “**Purchaser**”)

AND:

KSV RESTRUCTURING INC., solely in its capacity as court-appointed receiver and manager and not in its personal or corporate capacity of all of the assets, undertakings and properties of Mizrahi 128 Hazelton Retail Inc., including all proceeds thereof

(hereinafter referred to as the “**Seller**”)

WHEREAS pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated June 4, 2024, in the proceeding bearing Court file number CV-24-00715321-00CL, KSV Restructuring Inc. was appointed as receiver and manager, without security, of all of the assets, undertakings and properties of Mizrahi 128 Hazelton Retail Inc. (“**Retail**”), including all proceeds thereof;

AND WHEREAS as soon as possible following execution of this Agreement, the Seller intends to seek the Sale Process Order (as defined herein), among other things approving (a) the Sale Process (as defined herein) and (b) this Agreement solely as a “stalking horse bid” pursuant to the Sale Process;

AND WHEREAS the Purchaser has agreed to act as a “stalking horse bidder” in accordance with the terms and conditions of this Agreement and the Sale Process;

AND WHEREAS, if this Agreement is selected as the Successful Bid (as defined in the Sale Process), the Seller desires to sell and assign to the Purchaser and the Purchaser desires to purchase and assume from the Seller the Purchased Assets (as defined herein) in accordance with the terms of this Agreement;

AND WHEREAS the Seller is prepared to sell to the Purchaser, and the Purchaser is prepared to purchase from the Seller, the Purchased Assets (as defined herein) on the terms and subject to the conditions set out herein;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Seller and the Purchaser agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Defined Terms

For the purposes of this Agreement, unless the context otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

“**Assumed Liabilities**” has the meaning set out in Section 2.3;

“**Business Day**” means any day, other than a Saturday or a Sunday, on which commercial banks in Toronto, Ontario, are open for business during normal banking hours;

“**Closing**” means the closing of the Transaction, including the satisfaction of the Purchase Price and the delivery of the Closing Deliveries on the Closing Date;

“**Closing Date**” means the day that is no later than ten days after the date on which the Court grants the Sale Approval and Vesting Order (or such earlier day after the Court grants the Sale Approval and Vesting Order that is agreed to by the parties), provided that if such day is not a Business Day, then the Closing Date shall be the next following Business Day;

“**Closing Deliveries**” means the agreements, instruments and other documents to be delivered by the Seller to the Purchaser pursuant to Section 3.2 and the agreements, instruments, money and other documents to be delivered by the Purchaser to the Seller pursuant to Section 3.3;

“**Court**” has the meaning set out in the Recitals to this Agreement;

“**Credit Bid Amount**” has the meaning set out in Section 2.4;

“**Encumbrance**” means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, encroachment, servitude, restriction on use, right of occupation, any matter capable of registration against title, option, right of first offer or refusal or similar right, restriction on voting (in the case of any voting or equity interest), right of pre-emption or privilege or any contract to create any of the foregoing;

“**Excluded Assets**” has the meaning set out in Section 2.2;

“**Evidence of Release**” has the meaning set out in Section 2.5;

“**Governmental Authority**” means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government and any government department, body, ministry, agency, tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government;

“**HST**” means all taxes payable under the *Excise Tax Act* (Canada), including goods and services taxes and any harmonized sales taxes in applicable provinces, or under any provincial legislation similar to the *Excise Tax Act* (Canada), and any reference to a specific provision of the *Excise Tax Act* (Canada) or any such provincial legislation shall refer to any successor provision thereto of like or similar effect;

“**HST Undertaking and Indemnity**” has the meaning set out in Section 2.6;

“**Outside Date**” means the day that is 30 days after the date on which the Court grants the Sale Approval and Vesting Order or such other date as agreed to by the parties;

“**Purchase Price**” has the meaning set out in Section 2.2;

“**Purchased Assets**” means all of the right, title and interest of Retail in the Retail APS;

“**Retail APS**” means the agreement of purchase and sale between Retail (as assigned by Mizrahi Inc. to Retail pursuant to an Assignment and Assumption of Purchase Agreement effective November 10, 2020), as purchaser, and Mizrahi (128 Hazelton) Inc., as vendor, dated November 29, 2016, as amended by an amendment dated June 14, 2024, and as may be further amended, supplemented, restated, replaced or otherwise modified from time to time;

“**Sale Approval and Vesting Order**” means an order of the Court, in form and substance satisfactory to the Seller and the Purchaser, acting reasonably, approving this Agreement and vesting in and to the Purchaser the Purchased Assets and the Purchased Property (as defined in the Retail APS), free and clear of and from any and all Encumbrances;

“**Sale Process**” means the sale process in form and substance acceptable to the Seller and the Purchaser, each acting reasonably;

“**Sale Process Order**” has the meaning ascribed thereto in Section 4.3(a);

“**Superior Transaction**” means a transaction for the direct or indirect acquisition of some or all of the Purchased Assets which requires completion on or before the Outside Date and which, in the opinion of the Seller, is capable of being completed by the Outside Date and provides for cash consideration payable on closing in excess of the Purchase Price; and

“**Transaction**” means the transaction of purchase and sale contemplated by this Agreement.

1.2 Currency

Unless otherwise indicated, all dollar amounts in this Agreement are expressed in Canadian currency.

1.3 Sections and Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an Article, Section or Schedule refers to the specified Article, Section or Schedule of or to this Agreement.

1.4 Number, Gender and Persons

In this Agreement, words importing the singular number only shall include the plural and *vice versa*, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.

1.5 Interpretation of Certain Non-Capitalized Terms

The word “**including**” means including without limitation.

1.6 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.

1.7 Time of Essence

Time shall be of the essence of this Agreement.

1.8 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.

1.9 Applicable Law

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

ARTICLE 2

PURCHASE AND SALE

2.1 Purchase and Sale

The Seller hereby agrees to sell the Purchased Assets to the Purchaser and the Purchaser hereby agrees to purchase the Purchased Assets from the Seller in consideration of the payment of the Purchase Price on the Closing Date, on the terms and subject to the conditions set out in this Agreement.

2.2 Excluded Assets

The Seller shall not sell to the Purchaser and the Purchaser shall not purchase from the Seller any assets other than the specifically enumerated Purchased Assets (collectively, the “**Excluded Assets**”).

2.3 Assumption of Liabilities

The Purchaser shall assume as of the Closing Date and shall pay, discharge and perform, as the case may be, from and after the Closing Date, all liabilities and obligations of Retail arising under the Retail APS from and after the Closing Date (collectively, the “**Assumed Liabilities**”). The Purchaser covenants to close the transaction under the Retail APS immediately after Closing.

2.4 Purchase Price.

The purchase price (the “**Purchase Price**”) payable by the Purchaser to the Seller for the Purchased Assets shall be the aggregate of (i) the amount of \$300,000 owing by Retail to the Purchaser on Closing (the “**Credit Bid Amount**”), plus applicable taxes, if any; and (ii) the amount of the Assumed Liabilities as of Closing.

2.5 Satisfaction of Purchase Price

The Purchase Price shall be satisfied on Closing by the Purchaser (i) as to the amount of the Assumed Liabilities by assuming such Assumed Liabilities; and (ii) as to the Credit Bid Amount by providing evidence to the Seller of the release of \$300,000 owing by Retail to the Purchaser (the “**Evidence of Release**”).

2.6 Registration and Transfer Taxes

(a) The Seller and the Purchaser shall each be responsible for the costs of their respective solicitors. The Purchaser shall be responsible, if applicable, for all sales taxes and HST payable in connection with the sale and transfer of the Purchased Assets pursuant to this Agreement. The Seller shall be responsible for registration fees payable, if any, in connection with the discharges of any Encumbrances.

(b) With respect to HST, the parties agree that the Seller shall not collect HST from the Purchaser in connection with transfer of the Purchased Assets if, on the Closing Date, the

Purchaser delivers to the Seller (i) a certificate of the Purchaser setting out the registration number of the Purchaser for HST purposes, and (ii) an undertaking by the Purchaser to pay all applicable HST in connection with the transaction contemplated by this Agreement and an indemnity by the Purchaser whereby the Purchaser agrees to indemnify and hold the Seller harmless from and against any and all losses that may be suffered or incurred, directly or indirectly, by the Seller or may become payable by the Seller arising from or in respect of any failure by the Purchaser to register for the purposes of the HST imposed under the *Excise Tax Act* (Canada) or to perform its obligations under such Act in connection with the transaction contemplated by this Agreement (collectively, the “**HST Undertaking and Indemnity**”).

ARTICLE 3 **CLOSING AND CLOSING CONDITIONS**

3.1 Transfer

Subject to compliance with the terms and conditions hereof, the transfer of possession of the Purchased Assets shall be deemed to take effect, and Closing shall be deemed to have occurred, upon the delivery of the Receiver’s Certificate pursuant to the Sale Approval and Vesting Order (and as defined therein).

3.2 Closing Deliveries by Seller

On or before the Closing Date, subject to the provisions of this Agreement, the Seller shall execute (as applicable) and deliver to the Purchaser, each of which shall be in form and substance satisfactory to the Purchaser acting reasonably:

- (a) a receipt for the satisfaction of the Purchase Price;
- (b) a copy of the issued and entered Sale Approval and Vesting Order;
- (c) a certificate of an officer of the Seller confirming that all conditions to Closing in its favour are either satisfied or waived; and
- (d) any other documents required pursuant to this Agreement in form and substance satisfactory to the Purchaser and the Seller, each acting reasonably.

3.3 Closing Deliveries by the Purchaser

On or before the Closing Date, subject to the provisions of this Agreement, the Purchaser shall execute (as applicable) and deliver to the Seller, each of which shall be in form and substance satisfactory to the Seller acting reasonably:

- (a) the Evidence of Release;
- (b) an assignment and assumption agreement with respect to the Retail APS and the Assumed Liabilities;
- (c) the HST Undertaking and Indemnity;

- (d) a certificate of the Purchaser certifying that all of the representations and warranties of the Purchaser contained in this Agreement are true and correct as if made as of the Closing Date;
- (e) a certificate of an officer of the Purchaser confirming that all conditions to Closing in its favour are either satisfied or waived; and
- (f) any other documents required pursuant to this Agreement in form and substance satisfactory to the Purchaser and the Seller, each acting reasonably.

3.4 Further Assurances

Each party to this Agreement covenants and agrees that it will at all times after the Closing Date, at the expense of the requesting party, promptly execute and deliver all such documents, including, without limitation, all such additional conveyances, transfers, consents and other assurances and do all such other acts and things as the other party, acting reasonably, may from time to time request be executed or done in order to better evidence or perfect or effectuate any provision of this Agreement or of any agreement or other document executed pursuant to this Agreement or any of the respective obligations intended to be created hereby or thereby.

ARTICLE 4 **CONDITIONS**

4.1 Conditions of Closing in Favour of the Purchaser

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Purchaser, to be performed or fulfilled at or prior to Closing (or such earlier date as may be specified below):

- (a) Representations and Warranties. On Closing, the representations and warranties of the Seller contained in this Agreement shall be true and correct as if made as of the Closing Date;
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Seller on or before the Closing shall have been complied with or performed in all material respects; and
- (c) Documents. The Seller shall have delivered the documents referred to in Section 3.2.

4.2 Conditions of Closing in Favour of the Seller

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Seller, to be performed or fulfilled at or prior to Closing (or such earlier date as may be specified below):

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- (a) Representations and Warranties. On Closing, the representations and warranties of the Purchaser contained in this Agreement shall be true and correct as if made as of the Closing Date;
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser on or before the Closing shall have been complied with or performed in all material respects;
- (c) Documents. The Purchaser shall have made the payments and delivered the documents referred to in Section 3.3; and
- (d) Retail APS Transaction. All conditions to closing the purchase of the Unit (as defined in the Retail APS) under the Retail APS (subject to the release of any signed documents from escrow) shall have been either satisfied or waived.

4.3 Conditions of Closing for the Mutual Benefit of the Seller and Purchaser

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the mutual benefit of the Seller and the Purchaser, to be performed or fulfilled at or prior to Closing (or such earlier date as may be specified below):

- (a) Sale Process Order. (i) By no later than June 21, 2024 or the first available Court date thereafter (or such later date as the Seller and the Purchaser may agree in their sole discretion), the Court shall have entered and issued an order, *inter alia*, approving (y) the Sale Process and (z) this Agreement solely as the “stalking horse bid” pursuant to the Sale Process (the “**Sale Process Order**”), which Sale Process Order shall be in form and substance satisfactory to the Seller and the Purchaser, each acting reasonably; and (ii) on Closing, the Sale Process Order shall not have been stayed, varied in any material respect or set aside;
- (b) Successful Bid. The Transaction shall have been selected as the Successful Bid (as defined in the Sale Process) in accordance with the Sale Process Order and the Sale Process;
- (c) Sale Approval and Vesting Order. (i) By no later than fourteen (14) calendar days following the Transaction being selected as the Successful Bid or the first available Court date thereafter (or such later date as the Seller and the Purchaser may agree in their sole discretion), the Seller shall have obtained the Sale Approval and Vesting Order; and (ii) on Closing, the Sale Approval and Vesting Order shall not have been stayed, varied in any material respect or set aside;
- (d) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby; and
- (e) Injunctions. There shall be in effect no injunction against closing the Transaction entered by a court of competent jurisdiction.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of the Seller

The Seller represents and warrants to and in favour of the Purchaser that, as of the date of this Agreement:

- (a) the Seller is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada); and
- (b) the Seller has been appointed by the Court as receiver and manager, without security, of the Purchased Assets. Subject only to the entry of the Sale Process Order and the Approval and Vesting Order, (i) it will on Closing have the necessary authority to enter into this Agreement and to carry out the Transaction on the terms and subject to the conditions set out in this Agreement and (ii) this Agreement constitutes a legal, valid and binding obligation of the Seller, enforceable against the Seller by the Purchaser in accordance with its terms

5.2 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to and in favour of the Seller that, as of the date of this Agreement:

- (a) the Purchaser is a corporation duly incorporated and organized and validly subsisting under the laws of the Province of Ontario pursuant to the Business Corporations Act (Ontario) and has the corporate power to enter into this Agreement and to perform its obligations hereunder and to consummate the Transaction;
- (b) this Agreement has been duly authorized, executed and delivered by the Purchaser and is a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser by the Seller in accordance with its terms;
- (c) the Purchaser is a “Canadian”, as defined in the *Investment Canada Act* (Canada);
- (d) the Purchaser is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada); and
- (e) the Purchaser is a registrant for purposes of Part IX of the *Excise Tax Act* (Canada) whose registration number is 84061 7575 RT0001.

5.3 Survival

The representations, warranties and certifications of the Seller and the Purchaser contained in this Agreement and in any Closing Deliveries shall merge on Closing and not survive following Closing. Notwithstanding the foregoing, the Seller’s covenant to close the transaction under the Retail APS immediately following Closing shall survive Closing.

ARTICLE 6
AS IS, WHERE IS SALE

6.1 **“As is, Where is”**

The Purchaser acknowledges that the Seller is selling the Purchased Assets on an “as is, where is” basis as they shall exist on the Closing Date and that, as of the date of this Agreement, the Purchaser has completed all of its due diligence in respect of the transaction contemplated by this Agreement and has satisfied itself in all respects as to the Purchased Assets. Any information provided by the Seller to the Purchaser describing the Purchased Assets has been prepared solely for the convenience of prospective purchasers and is not warranted to be complete, accurate or correct. Unless specifically stated in this Agreement, no representation, warranty, covenant or condition, whether statutory, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise is being given in this Agreement or in any instrument furnished in connection with this Agreement as to title, outstanding liens, Encumbrances, description, merchantability, value, suitability or marketability thereof or in respect of any other matter or thing whatsoever including, without limitation, the respective rights, titles and interests of the Seller, if any, therein. The Purchaser shall be deemed to have relied entirely on its own inspection and investigation in proceeding with the Transaction.

ARTICLE 7
TERMINATION

7.1 **Termination**

This Agreement may be terminated at any time prior to Closing as follows:

- (a) automatically and without any action or notice by either party, immediately if this Agreement is not selected as the Successful Bid or the Back-Up Bid (as defined in the Sale Process) in accordance with the Sales Process;
- (b) automatically and without any action or notice by either party, immediately if the Seller completes a Superior Transaction with a party other than the Purchaser or an affiliate of the Purchaser;
- (c) automatically and without any action or notice by either party, immediately upon the issuance of a final and non-appealable order, decree, or ruling or any other action by a Governmental Authority to restrain, enjoin or otherwise prohibit the Transaction;
- (d) by mutual written consent of the Seller and the Purchaser;
- (e) by either the Seller or the Purchaser if the Closing has not occurred on or before the Outside Date; provided, however, that a party may not exercise such termination right if they are in material breach of their obligations under this Agreement;

- (f) by the Seller, if the Purchaser fails to fulfill any condition set forth in Section 4.2 by the Outside Date and failure has not been waived by the Seller or cured by the Outside Date;
- (g) by the Purchaser, if the Seller fails to fulfill any condition set forth in Section 4.1 by the Outside Date and such failure has not been waived by the Purchaser or cured by the Outside Date; or
- (h) by either, if the conditions set forth in Section 4.3 have not been satisfied by the date specified therein or, if not specified, by the Outside Date.

7.2 Effects of Termination

If this Agreement is terminated pursuant to Section 7.1, except as expressly provided herein, all further rights and obligations of the parties under or pursuant to this Agreement shall terminate without further liability of any party to the other.

ARTICLE 8 **MISCELLANEOUS**

8.1 Notices

(a) Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person, transmitted by e-mail or sent by registered mail, charges prepaid, addressed as follows:

- (i) if to the Seller:

KSV Restructuring Inc.
220 Bay Street, 13th Floor PO Box 20
Toronto, Ontario M5J 2W4

Attention: Bobby Kofman
E-Mail: bkofman@ksvadvisory.com

with a copy to, which copy shall not constitute notice:

Norton Rose Fulbright Canada LLP
220 Bay Street, Suite 3000 PO Box 53
Toronto, ON M5K 1E7

Attention: Jennifer Stam
E-Mail: Jennifer.stam@nortonrosefulbright.com

- (ii) if to the Purchaser:

Constantine Enterprises Inc.
333 Bloor Street East, 10th Floor

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Toronto, ON M4W 1G9

Attention: Robert Hiscox / Chris Donlan
E-Mail: robert.hiscox@constantineinc.com /
chris.donlan@constantineinc.com

with a copy to, which copy shall not constitute notice:

Cassels Brock & Blackwell LLP
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance Street
Toronto, Ontario M5H 0B4

Attention: Jason Arbuck / Jane Dietrich
Email: jarbuck@cassels.com / jdietrich@cassels.com

Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day or if delivery or transmission is made on a Business Day after 5:00 p.m. at the place of receipt, then on the next following Business Day) or, if mailed, on the third Business Day following the date of mailing; provided, however, that if at the time of mailing or within three Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid.

Either party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 8.1.

8.2 Enurement and Assignment

This Agreement shall enure to the benefit of and shall be binding on and enforceable by the parties and, where the context so permits, their respective successors and permitted assigns. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent may be unreasonably withheld or delayed. No assignment by the Purchaser shall relieve the Purchaser from any of its obligations hereunder.

8.3 Amendment and Waivers

No amendment or waiver of any provision of this Agreement shall be binding on either party unless consented by such party in a writing specifically referencing the provision waived.

8.4 **No Personal Liability of the Seller**

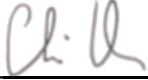
The Seller is executing this Agreement solely in its capacity as Court-appointed receiver and manager of the Purchased Assets and not in personal or corporate capacity and none of the Seller, KSV Restructuring Inc. or any of their respective directors, officers, agents, servants or employees shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof.

8.5 **Counterparts**

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement.


IN WITNESS WHEREOF this Agreement has been executed by the parties on the date first written above.

CONSTANTINE ENTERPRISES INC.

by 

Name: Chris Donlan
Title: Chief Financial Officer

KSV RESTRUCTURING INC., solely
in its capacity as court-appointed
receiver and manager and not in its
personal or corporate capacity of all of
the assets, undertakings and properties
of Mizrahi 128 Hazelton Retail Inc.,
including all proceeds thereof

by 

Name: Bobby Kofman
Title: Managing Director

Appendix “F”

**128 HAZELTON
COMMERCIAL AGREEMENT**

AMENDING AGREEMENT TO THE AMENDED AND RESTATED AGREEMENT OF PURCHASE AND SALE

WHEREAS Mizrahi Inc. and Mizrahi 128 Hazelton Retail Inc. entered into an Agreement of Purchase and Sale dated November 29, 2016 in respect of the Unit, the Parking Units and the Locker Unit (each as described in Schedule "E" attached to the Amended and Restated Agreement, as defined below) (the "**Original Agreement**");

AND WHEREAS Mizrahi Inc. assigned all of its rights in the Original Agreement to Mizrahi (128 Hazelton) Inc. pursuant to an assignment agreement dated November 10, 2020;

AND WHEREAS the parties to the Original Agreement entered into an Amended and Restated Agreement of Purchase and Sale on June 14, 2024 (the "**Amended and Restated Agreement**");

AND WHEREAS the Amended and Restated Agreement inadvertently included an incorrect description of the parking units in Schedule "E" attached thereto;

AND WHEREAS the parties to the Amended and Restated Agreement wish to amend the Amended and Restated Agreement to replace Schedule "E" attached thereto on the terms and conditions set out herein;

The parties hereto agree as follows:

1. Schedule "E" of the Amended and Restated Agreement is hereby deleted and replaced with the Schedule "E" attached hereto.
2. Except as expressly stated herein, the terms of the Amended and Restated Agreement remain unamended and in full force and effect.

DATED at Toronto, this 9th day of August, 2024.



**MIZRAHI 128 HAZELTON RETAIL INC., by its court appointed receiver,
KSV Restructuring Inc.**

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

DATED at Toronto, this 9th day of August, 2024.

Vendor's Solicitors:

Harris, Sheaffer, LLP
Suite 610 - 4100 Yonge Street
Toronto, Ontario
M2P 2B5
Phone: 416-250-5800
Fax: 416-250-5300
Attn: Jeffrey P. Silver

**MIZRAHI (128 HAZELTON) INC., by its court appointed
receiver, KSV Restructuring Inc.**



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

Schedule "E" to Agreement of Purchase and Sale**(legal description)**

1. Legal Description of the Unit:

Part of Lot 1, Plan 687E and Part of Block A, Plan 411, designated as Part 1 on Plan 66R-32656; Subject to an easement as in Instrument No. AT4864056; Subject to an easement as in Instrument No. AT5237797; Together with an easement over Part of Lots 1 and 2, Plan 687-E, designated as Part 1 on Plan 66R-31612 as in Instrument No. AT5927858; Together with an easement over the Common Elements of Toronto Standard Condominium Plan No. 2967 as in Instrument No. AT6281433; Together with an easement over part of Toronto Standard Condominium Plan No. 2967, being Part 3 on Plan 66R-32656 as in Instrument No. AT6281433; Together with an easement over the common elements on Levels 1 and A and Units 8, 9, 10, 12 and 13, Level A, Toronto Standard Condominium Plan No. 2967 as in Instrument No. AT6281433; Subject to an easement in favour of Toronto Standard Condominium Plan No. 2967, as in Instrument No. AT6281433; now in the City of Toronto, being the whole of PIN 211960-0353(LT)

2. Legal Description of the Locker Unit and the Parking Units:

Locker Unit:

- (i) Unit 16, Level B, Toronto Standard Condominium Plan No. 2967 and its appurtenant interest; Subject to and together with easements as set out in Schedule A as in Instrument No. AT6281433; City of Toronto, being the whole of PIN 76967-0048 (LT)

Parking Units:

- (ii) Unit 10, Level B, Toronto Standard Condominium Plan No. 2967 and its appurtenant interest; Subject to and together with easements as set out in Schedule A as in Instrument No. AT6281433; City of Toronto, being the whole of PIN 76967-0042 (LT)
- (iii) Unit 11, Level B, Toronto Standard Condominium Plan No. 2967 and its appurtenant interest; Subject to and together with easements as set out in Schedule A as in Instrument No. AT6281433; City of Toronto, being the whole of PIN 76967-0043 (LT)

Appendix “G”

THIS AGREEMENT is made as of the 20th day of August, 2024.

BETWEEN:

HAZY HOLDINGS INC.

(hereinafter referred to as the "**Purchaser**")

AND:

CONSTANTINE ENTERPRISES INC.

(hereinafter referred to as the "**Seller**")

WHEREAS pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated June 4, 2024, in the proceeding bearing Court file number CV-24-00715321-00CL, KSV Restructuring Inc. was appointed as receiver and manager, without security, of all of the assets, undertakings and properties of both Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**"), including all proceeds thereof;

AND WHEREAS on June 21, 2024, the Court entered and issued an order, *inter alia*, approving the Sale Process (the "**Sale Process Order**");

AND WHEREAS by an amended and restated agreement of purchase and sale dated June 14, 2024, between Hazelton and Retail (as amended by a Consent and Amendment Agreement dated the date hereof, and otherwise amended from time to time, the "**Retail APS**"), Retail agreed to purchase from Hazelton all of Retail's right, title, estate, and interest in and to the Purchased Property (as defined in the Retail APS);

AND WHEREAS the Seller intends to acquire the Retail APS from Retail pursuant to the Stalking Horse APA (as defined in the Sale Process Order);

AND WHEREAS following its acquisition of the Retail APS from Retail, the Seller desires to sell and assign to the Purchaser and the Purchaser desires to purchase and assume from the Seller the Purchased Assets (as defined herein) in accordance with the terms of this Agreement;

AND WHEREAS the Seller is prepared to sell to the Purchaser, and the Purchaser is prepared to purchase from the Seller, the Purchased Assets (as defined herein) on the terms and subject to the conditions set out herein;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Seller and the Purchaser agree as follows:

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ARTICLE 1

INTERPRETATION

1.1 Defined Terms

For the purposes of this Agreement, unless the context otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

“**Assumed Liabilities**” has the meaning set out in Section 2.3;

“**Business Day**” means any day, other than a Saturday or a Sunday, on which commercial banks in Toronto, Ontario, are open for business during normal banking hours;

“**Closing**” means the closing of the Transaction, including the satisfaction of the Purchase Price and the delivery of the Closing Deliveries on the Closing Date;

“**Closing Date**” means the day that is no later than ten days after the date on which the Court grants the Sale Approval and Vesting Order (or such earlier day after the Court grants the Sale Approval and Vesting Order that is agreed to by the parties), provided that if such day is not a Business Day, then the Closing Date shall be the next following Business Day;

“**Closing Deliveries**” means the agreements, instruments and other documents to be delivered by the Seller to the Purchaser pursuant to Section 3.2 and the agreements, instruments, money and other documents to be delivered by the Purchaser to the Seller pursuant to Section 3.3;

“**Court**” has the meaning set out in the Recitals to this Agreement;

“**Deposit**” has the meaning set out in Section 2.5;

“**Encumbrance**” means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, encroachment, servitude, restriction on use, right of occupation, any matter capable of registration against title, option, right of first offer or refusal or similar right, restriction on voting (in the case of any voting or equity interest), right of pre-emption or privilege or any contract to create any of the foregoing;

“**Excluded Assets**” has the meaning set out in Section 2.2;

“**Governmental Authority**” means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government and any government department, body, ministry, agency, tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government;

“**HST**” means all taxes payable under the *Excise Tax Act* (Canada), including goods and services taxes and any harmonized sales taxes in applicable provinces, or under any

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provincial legislation similar to the *Excise Tax Act* (Canada), and any reference to a specific provision of the *Excise Tax Act* (Canada) or any such provincial legislation shall refer to any successor provision thereto of like or similar effect;

“**Outside Date**” means the day that is 30 days after the date on which the Court grants the Sale Approval and Vesting Order or such other date as agreed to by the parties;

“**Purchase Price**” has the meaning set out in Section 2.2;

“**Purchased Assets**” means all of the right, title and interest of the Seller in the Retail APS;

“**Sale Approval and Vesting Order**” means an order of the Court, in form and substance satisfactory to the Seller and the Purchaser, acting reasonably, approving this Agreement and vesting in and to the Purchaser the Purchased Assets and the Purchased Property (as defined in the Retail APS), free and clear of and from any and all Encumbrances;

“**Sale Process**” has the meaning set out in the Sale Process Order;

“**Sale Process Order**” has the meaning set out in the Recitals to this Agreement;

“**Status Certificates**” has the meaning set out in Section 3.4;

“**Transaction**” means the transaction of purchase and sale contemplated by this Agreement.

1.2 Currency

Unless otherwise indicated, all dollar amounts in this Agreement are expressed in Canadian currency.

1.3 Sections and Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an Article, Section or Schedule refers to the specified Article, Section or Schedule of or to this Agreement.

1.4 Number, Gender and Persons

In this Agreement, words importing the singular number only shall include the plural and *vice versa*, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.

1.5 Interpretation of Certain Non-Capitalized Terms

The word “**including**” means including without limitation.

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1.6 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.

1.7 Time of Essence

Time shall be of the essence of this Agreement.

1.8 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.

1.9 Applicable Law

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

**ARTICLE 2
PURCHASE AND SALE****2.1 Purchase and Sale**

The Seller hereby agrees to sell the Purchased Assets to the Purchaser and the Purchaser hereby agrees to purchase the Purchased Assets from the Seller in consideration of the payment of the Purchase Price on the Closing Date, on the terms and subject to the conditions set out in this Agreement.

2.2 Excluded Assets

The Seller shall not sell to the Purchaser and the Purchaser shall not purchase from the Seller any assets other than the Purchased Assets (collectively, the “**Excluded Assets**”).

2.3 Assumption of Liabilities

The Purchaser shall assume as of the Closing Date and shall pay, discharge and perform, as the case may be, from and after the Closing Date, all liabilities and obligations of Retail arising under the Retail APS from and after the Closing Date other than the obligation to

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pay (i) \$93,000 of the purchase price under Retail APS, (ii) 4.056% of the land transfer tax and any net amount owing by the Purchaser under the Retail APS for adjustments, and (iii) any amounts that are the responsibility of the Seller pursuant to Section 3.4 hereof (which obligations shall remain obligations of the Seller and be referred to herein as the “**Seller’s Retained Obligations**”) (the foregoing obligations that are being assumed by the Purchaser are collectively referred to as the “**Assumed Liabilities**”). The Purchaser covenants to close the transaction under the Retail APS immediately after Closing. The Seller covenants to pay the Seller’s Retained Obligations in accordance with the terms of the Retail APS. The Seller will indemnify and hold the Purchaser harmless for any liability incurred by the Purchaser arising from the Special Assessment levied by the Board of Directors of Toronto Standard Condominium Corporation No. 2967 to raise \$213,357.00 for the Declarant insolvency fees.

2.4 Purchase Price.

The purchase price (the “**Purchase Price**”) payable by the Purchaser to the Seller for the Purchased Assets shall be the amount of the Assumed Liabilities.

2.5 Satisfaction of Purchase Price

Concurrently with the execution of this Agreement, the Purchaser shall pay to the Receiver the sum of \$230,000 as a deposit (the “**Deposit**”). The Receiver shall invest the Deposit in a non-interest-bearing account of a Canadian chartered bank or trust company, in trust, to be disbursed in accordance with the following provisions: (a) if the Transaction contemplated herein is completed in accordance with its terms, the Deposit shall be released from trust and applied to the Purchaser’s obligation to pay the purchase price under the Retail APS; and (b) if the Transaction is not completed as contemplated herein, the Deposit shall be dealt with in accordance with Section 7.2.

The Purchase Price shall be satisfied on Closing by the Purchaser assuming the Assumed Liabilities.

2.6 Registration and Transfer Taxes

The Seller and the Purchaser shall each be responsible for the costs of their respective solicitors. The Purchaser shall be responsible, if applicable, for all sales taxes and HST payable in connection with the sale and transfer of the Purchased Assets pursuant to this Agreement. The Seller shall be responsible for registration fees payable, if any, in connection with the discharges of any Encumbrances.

ARTICLE 3 CLOSING AND CLOSING CONDITIONS

3.1 Transfer

Subject to compliance with the terms and conditions hereof, the transfer of possession of the Purchased Assets shall be deemed to take effect, and Closing shall be deemed to

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have occurred, upon the delivery of the Receiver's Certificate pursuant to the Sale Approval and Vesting Order (and as defined therein).

3.2 Closing Deliveries by Seller

On or before the Closing Date, subject to the provisions of this Agreement, the Seller shall execute (as applicable) and deliver to the Purchaser, each of which shall be in form and substance satisfactory to the Purchaser acting reasonably:

- (a) a copy of the issued and entered Sale Approval and Vesting Order;
- (b) a certificate of an officer of the Seller confirming that all conditions to Closing in its favour are either satisfied or waived;
- (c) the Status Certificates; and
- (d) any other documents required pursuant to this Agreement in form and substance satisfactory to the Purchaser and the Seller, each acting reasonably.

3.3 Closing Deliveries by the Purchaser

On or before the Closing Date, subject to the provisions of this Agreement, the Purchaser shall execute (as applicable) and deliver to the Seller, each of which shall be in form and substance satisfactory to the Seller acting reasonably:

- (a) an assignment and assumption agreement with respect to the Retail APS and the Assumed Liabilities;
- (b) a certificate of the Purchaser certifying that all of the representations and warranties of the Purchaser contained in this Agreement are true and correct as if made as of the Closing Date;
- (c) a certificate of an officer of the Purchaser confirming that all conditions to Closing in its favour are either satisfied or waived; and
- (d) any other documents required pursuant to this Agreement in form and substance satisfactory to the Purchaser and the Seller, each acting reasonably.

3.4 Status Certificates

The Seller shall provide, without cost to the Purchaser, at least one (1) Business Day prior to the Closing Date, a status certificate respecting the condominium units comprising the Purchased Property, and an estoppel certificate from the Condominium under Section 20 of the Shared Facilities Agreement (collectively, the "**Status Certificates**"). The Status Certificates shall not disclose any ongoing defaults or amounts owing respecting the Purchased Property, or in the event that any such monetary default or amount is outstanding with respect to the Purchased Property, the Seller shall be responsible to pay same by way of corresponding increase to the Seller's Retained Obligations, or alternatively, the Purchaser may elect to receive an adjustment

- 7 -

on the statement of adjustments from Hazelton in an amount satisfactory to remedy the applicable default or amount outstanding and complete the purchase of the Purchased Property subject to same.

3.5 Further Assurances

Each party to this Agreement covenants and agrees that it will at all times after the Closing Date, at the expense of the requesting party, promptly execute and deliver all such documents, including, without limitation, all such additional conveyances, transfers, consents and other assurances and do all such other acts and things as the other party, acting reasonably, may from time to time request be executed or done in order to better evidence or perfect or effectuate any provision of this Agreement or of any agreement or other document executed pursuant to this Agreement or any of the respective obligations intended to be created hereby or thereby.

ARTICLE 4 **CONDITIONS**

4.1 Conditions of Closing in Favour of the Purchaser

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Purchaser, to be performed or fulfilled at or prior to Closing (or such earlier date as may be specified below):

- (a) Representations and Warranties. On Closing, the representations and warranties of the Seller contained in this Agreement shall be true and correct as if made as of the Closing Date;
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Seller on or before the Closing shall have been complied with or performed in all material respects; and
- (c) Documents. The Seller shall have delivered the documents referred to in Section 3.2.

4.2 Conditions of Closing in Favour of the Seller

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Seller, to be performed or fulfilled at or prior to Closing (or such earlier date as may be specified below):

- (a) Representations and Warranties. On Closing, the representations and warranties of the Purchaser contained in this Agreement shall be true and correct as if made as of the Closing Date;
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser on or before the Closing shall have been complied with or performed in all material respects; and

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- (c) Documents. The Purchaser shall have made the payments and delivered the documents referred to in Section 3.3.

4.3 Conditions of Closing for the Mutual Benefit of the Seller and Purchaser

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the mutual benefit of the Seller and the Purchaser, to be performed or fulfilled at or prior to Closing (or such earlier date as may be specified below):

- (a) Sale Process Order. On Closing, the Sale Process Order shall not have been stayed, varied in any material respect or set aside;
- (b) Seller to have Acquired the Retail APS. The Seller shall acquired the Retail APS in accordance with the Sale Process Order and the Sale Process, and such acquisition shall been approved by the Court;
- (c) Sale Approval and Vesting Order. (i) By no later than fourteen (14) calendar days following the Transaction being selected as the Successful Bid or the first available Court date thereafter (or such later date as the Seller and the Purchaser may agree in their sole discretion), the Seller shall have obtained the Sale Approval and Vesting Order; and (ii) on Closing, the Sale Approval and Vesting Order shall not have been stayed, varied in any material respect or set aside;
- (d) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby; and
- (e) Injunctions. There shall be in effect no injunction against closing the Transaction entered by a court of competent jurisdiction.

ARTICLE 5 **REPRESENTATIONS AND WARRANTIES**

5.1 Representations and Warranties of the Seller

The Seller represents and warrants to and in favour of the Purchaser that, as of the date of this Agreement:

- (a) the Seller is a corporation duly incorporated and organized and validly subsisting under the laws of the Province of Ontario pursuant to the Business Corporations Act (Ontario) and has the corporate power to enter into this Agreement and to perform its obligations hereunder and to consummate the Transaction;
- (b) this Agreement has been duly authorized, executed and delivered by the Seller and is a legal, valid and binding obligation of the Seller, enforceable against the Purchaser by the Seller in accordance with its terms; and

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- (c) the Seller is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada).

5.2 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to and in favour of the Seller that, as of the date of this Agreement:

- (a) the Purchaser is a corporation duly incorporated and organized and validly subsisting under the laws of the Province of Ontario pursuant to the Business Corporations Act (Ontario) and has the corporate power to enter into this Agreement and to perform its obligations hereunder and to consummate the Transaction;
- (b) this Agreement has been duly authorized, executed and delivered by the Purchaser and is a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser by the Seller in accordance with its terms;
- (c) the Purchaser is a “Canadian”, as defined in the *Investment Canada Act* (Canada);
- (d) the Purchaser is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada); and
- (e) the Purchaser is a registrant for purposes of Part IX of the *Excise Tax Act* (Canada) whose registration number is 75617 8828 RT0001.

5.3 Survival

The representations, warranties and certifications of the Seller and the Purchaser contained in this Agreement and in any Closing Deliveries shall merge on Closing and not survive following Closing. Notwithstanding the foregoing, the Seller’s covenant to close the transaction under the Retail APS immediately following Closing shall survive Closing.

ARTICLE 6 AS IS, WHERE IS SALE

6.1 “As is, Where is”

The Purchaser acknowledges that the Seller is selling the Purchased Assets on an “as is, where is” basis as they shall exist on the Closing Date and that, as of the date of this Agreement, the Purchaser has completed all of its due diligence in respect of the transaction contemplated by this Agreement and has satisfied itself in all respects as to the Purchased Assets. Any information provided by the Seller to the Purchaser describing the Purchased Assets has been prepared solely for the convenience of prospective purchasers and is not warranted to be complete, accurate or correct. Unless specifically stated in this Agreement, no representation, warranty, covenant or condition, whether statutory, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise is being given in this Agreement or in any instrument furnished in connection with this Agreement as to title, outstanding liens, Encumbrances,

- 10 -

description, merchantability, value, suitability or marketability thereof or in respect of any other matter or thing whatsoever including, without limitation, the respective rights, titles and interests of the Seller, if any, therein. The Purchaser shall be deemed to have relied entirely on its own inspection and investigation in proceeding with the Transaction.

ARTICLE 7 **TERMINATION**

7.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) automatically and without any action or notice by either party, immediately upon the issuance of a final and non-appealable order, decree, or ruling or any other action by a Governmental Authority to restrain, enjoin or otherwise prohibit the Transaction;
- (b) by mutual written consent of the Seller and the Purchaser;
- (c) by either the Seller or the Purchaser if the Closing has not occurred on or before the Outside Date; provided, however, that a party may not exercise such termination right if they are in material breach of their obligations under this Agreement;
- (d) by the Seller, if the Purchaser fails to fulfill any condition set forth in Section 4.2 by the Outside Date and failure has not been waived by the Seller or cured by the Outside Date;
- (e) by the Purchaser, if the Seller fails to fulfill any condition set forth in Section 4.1 by the Outside Date and such failure has not been waived by the Purchaser or cured by the Outside Date; or
- (f) by either, if the conditions set forth in Section 4.3 have not been satisfied by the date specified therein or, if not specified, by the Outside Date.

7.2 Effects of Termination

If this Agreement is terminated pursuant to Section 7.1, except as expressly provided herein, all further rights and obligations of the parties under or pursuant to this Agreement shall terminate without further liability of any party to the other.

In the event that the Agreement is terminated as a result of Sections 7.1(a), (b), (c), (e), and (f), the Deposit shall be promptly returned to the Purchaser and in all other cases, shall be forfeited to the Receiver upon termination.

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ARTICLE 8
MISCELLANEOUS

8.1 **Notices**

(a) Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person, transmitted by e-mail or sent by registered mail, charges prepaid, addressed as follows:

(i) if to the Seller:

333 Bloor Street East, 10th Floor
Toronto, ON M4W 1G9
Attention: Robert Hiscox / Chris Donlan
E-Mail: robert.hiscox@constantineinc.com /
chris.donlan@constantineinc.com

with a copy to:

KSV Restructuring Inc.
220 Bay Street, 13th Floor PO Box 20
Toronto, Ontario M5J 2W4

Attention: Bobby Kofman
E-Mail: bkofman@ksvadvisory.com

with a copy to, which copy shall not constitute notice:

Norton Rose Fulbright Canada LLP
220 Bay Street, Suite 3000 PO Box 53
Toronto, ON M5K 1E7

Attention: Jennifer Stam
E-Mail: Jennifer.stam@nortonrosefulbright.com

(ii) if to the Purchaser:

108 Avenue Road
Toronto, ON M5R 2H3

Attention: John Bujouves
E-Mail: john@bujouves.com

with a copy to, which copy shall not constitute notice:

DLA Piper (Canada) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, Ontario M5X 1E2

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Attention: Edmond Lamek / Jonathan Born
Email: edmond.lamek@dlapiper.com /
jonathan.born@dlapiper.com

Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day or if delivery or transmission is made on a Business Day after 5:00 p.m. at the place of receipt, then on the next following Business Day) or, if mailed, on the third Business Day following the date of mailing; provided, however, that if at the time of mailing or within three Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid.

Either party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 8.1.

8.2 Enurement and Assignment

This Agreement shall enure to the benefit of and shall be binding on and enforceable by the parties and, where the context so permits, their respective successors and permitted assigns. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent may be unreasonably withheld or delayed. No assignment by the Purchaser shall relieve the Purchaser from any of its obligations hereunder.

8.3 Amendment and Waivers

No amendment or waiver of any provision of this Agreement shall be binding on either party unless consented to by such party in a writing specifically referencing the provision waived.

8.4 No Personal Liability of the Seller

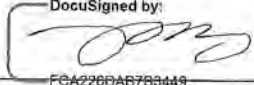
The Seller is executing this Agreement solely in its capacity as Court-appointed receiver and manager of the Purchased Assets and not in personal or corporate capacity and none of the Seller, KSV Restructuring Inc. or any of their respective directors, officers, agents, servants or employees shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof.

8.5 Counterparts

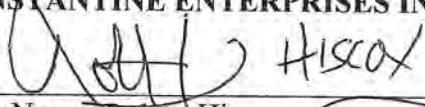
This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement.

IN WITNESS WHEREOF this Agreement has been executed by the parties on the date first written above.

HAZY HOLDINGS INC.

by  DocuSigned by:
FCA226DAB783449...
Name: John Bujouves
Title: Authorized Signing Officer

CONSTANTINE ENTERPRISES INC.

by  HISCOX
Name: Robert Hiscox
Title: President

THIS CONSENT AND AGREEMENT ("**AGREEMENT**") IS MADE this 20th day of August, 2024

CONSTANTINE ENTERPRISES INC.
(hereinafter referred to as the "Assignor")
OF THE FIRST PART

-AND -

HAZY HOLDINGS INC.
(hereinafter referred to as the "Assignee")
OF THE SECOND PART

-AND-

KSV RESTRUCTURING INC. ("KSV")
solely in its capacity as Receiver and Manager of
the property, assets and undertaking of
MIZRAHI (128 Hazelton) INC.
and not in its personal capacity
(hereinafter referred to as the "Vendor")
OF THE THIRD PART

WHEREAS pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated June 4, 2024, in the proceeding bearing Court file number CV-24-00715321-00CL, KSV Restructuring Inc. was appointed as receiver and manager, without security, of all of the assets, undertakings and properties of both Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**"), including all proceeds thereof (the "**Property**");

AND WHEREAS on June 21, 2024, the Court entered and issued an order, *inter alia*, approving the Sale Process (the "**Sale Process Order**");

AND WHEREAS by an amended and restated agreement of purchase and sale dated June 14, 2024, between Hazelton and Retail (as amended by a Consent and Amendment Agreement dated the date hereof, and otherwise amended from time to time, the "**Retail APS**"), Retail agreed to purchase from Hazelton all of Hazelton's right, title, estate, and interest in and to the Purchased Property (as defined in the Retail APS);

AND WHEREAS the Assignor intends to acquire the Retail APS from Retail pursuant to the Stalking Horse APA (as defined in the Sale Process Order);

AND WHEREAS following its acquisition of the Retail APS from Retail, the Assignor desires to sell and assign to the Assignee and the Assignee desires to purchase and assume from the Assignor the Retail APS in accordance with the terms of a Purchase Agreement dated the hereof (the "**Assignment Agreement**");

AND WHEREAS the Vendor has agreed to consent to the said purchase under the Assignment Agreement on the terms hereinafter set forth.

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained and for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of them) the parties hereby covenant and agrees as follows:

1. The parties hereto hereby acknowledge and confirm that the foregoing recitals are true both in substance and in fact.
2. The Assignee covenants and agrees with the Vendor that it shall forthwith do any act, and/or execute any documentation, which the Vendor may require from time to time for the purposes of confirming the assumption by the Assignee of the Assignor's obligations pursuant to the Purchase Agreement.
3. The Assignor hereby acknowledges and agrees that it has retained, and the Assignee has not assumed, the obligation to pay (i) \$93,000 of the purchase price under the Purchase Agreement, (ii) 4.056% of the land transfer tax and any net amount owing by the Assignee under the Purchase Agreement for adjustments; and (iii) any amounts that are the responsibility of the Assignor pursuant to Section 3.4 of the Assignment Agreement (collectively, the "**Assignor's Retained Obligations**").
4. The Vendor hereby, subject to the terms herein and the granting of an Order by the Court approving the closing of the transaction contemplated by the Purchase Agreement with the Assignee (the "**Approval Order**"), and notwithstanding anything contained in the Retail APS, consents to the assignment of the Purchase Agreement from the Assignor to the Assignee.
5. The Vendor is executing this Agreement solely in its capacity as Court-appointed receiver and manager of the property, assets and undertaking of, among other things, the Property and not in personal or corporate capacity and none of the Vendor, KSV Restructuring Inc. or any of their respective directors, officers, agents, servants or employees shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof.
6. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
7. Time shall be of the essence of this Agreement, and the Purchase Agreement, and all terms of the Purchase Agreement shall continue in full force and effect.
8. This Agreement shall enure to the benefit of and be binding upon the parties hereto their respective successors and assigns.
9. The Assignee agrees to pay the balance of the purchase price and all other amounts owing under the Purchase Agreement, less the Assignor's Retained Obligations, by wire transfer, bank draft or by certified cheque on closing in accordance with the provisions of the Purchase Agreement.
10. The Assignor hereby guarantees the due and timely performance and fulfillment of all covenants and obligations of the Assignee arising under this Agreement and the Retail APS, including without limitation, the obligation to pay the purchase price in

respect of the Property to the Vendor, and all other monies owing or payable to the Vendor by the "Purchaser" in accordance with the provisions of the Retail APS, and agrees to indemnify and save the Vendor harmless from and against all losses, damages, costs and expenses which the Vendor may sustain, incur or become liable for, by reason of the Assignee's default under this Agreement, or the Retail APS. In the event of the Assignee's failure to complete the transaction in accordance with the terms and conditions of the Retail APS, the Assignee acknowledges and agrees that the Vendor has the right, but not the obligation, to call upon the Assignor to complete the transaction in the Assignee's place, and where the Assignor is specifically called upon to pay the purchase price, the Assignee acknowledges and agrees that the Assignor shall have the right to receive title to the Property, and the Assignee shall release the Vendor and the Assignor from and against any and all costs, damages, actions, proceedings, demands and/or claims whatsoever which either of the parties hereto now has, or may hereafter have, against the other party hereto, by reason of, or in connection with, the Retail APS (and any and all addenda thereto or amendments thereof) and/or the completion thereof by the Assignor and Vendor in such case.

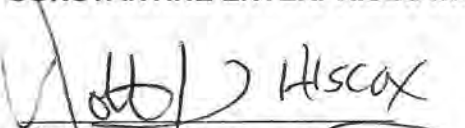
11. Any further assignment of the Retail APS by the Assignee shall remain subject to the terms of the Retail APS.

12. The parties hereto agree that notice of acceptance and delivery of the within offer and all communications thereto may be made by facsimile, or other electronic means addressed to the parties hereto or their solicitors or their agents. The parties hereto agree facsimile or other electronic copies shall constitute original copies.

13. This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first written above.

CONSTANTINE ENTERPRISES INC.


Name: R HISCOX
Title: ASO

I have the authority to bind the Corporation

HAZY HOLDINGS INC.



Name: FCA226DAB7B3449...

Title:

I have the authority to bind the Corporation

KSV RESTRUCTURING INC.
solely in its capacity
as Receiver and Manager of
the property, assets and undertaking of
MIZRAHI (128 Hazelton) INC.
and not in its personal capacity

Per: 
Name: Robert Kofman
Title: President

I/We have the authority to bind the
Corporation

Appendix “H”

AMENDING AGREEMENT – SECOND FLOOR UNITS

THIS AMENDING AGREEMENT (“**AGREEMENT**”) IS MADE this 7th day of August, 2024

CONSTANTINE ENTERPRISES INC.
(hereinafter referred to as the “**Purchaser**”)

–AND –

KSV RESTRUCTURING INC. (“KSV”)
solely in its capacity as Receiver and Manager of
the property, assets and undertaking of
MIZRAHI (128 Hazelton) INC.
and not in its personal capacity
(hereinafter referred to as the “**Vendor**”)

WHEREAS pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated June 4, 2024, in the proceeding bearing Court file number CV-24-00715321-00CL, KSV Restructuring Inc. was appointed as receiver and manager, without security, of all of the assets, undertakings and properties of both Mizrahi (128 Hazelton) Inc. (“**Hazelton**”), including all proceeds thereof;

AND WHEREAS the Purchaser and Hazelton entered into (a) an agreement of purchase and sale dated December 8, 2016 in respect of the purchase and sale of Unit 201 at 128 Hazelton, Toronto (as amended, the “**201 APS**”); and (b) an agreement of purchase and sale in respect of the purchase and sale of Unit 204 at 128 Hazelton, Toronto (as amended, the “**204 APS**”, and together with the 201 APS, the “**Purchase Agreements**”);

AND WHEREAS the Vendor and the Purchaser wish to amend the Purchase Agreements pursuant to the terms hereof;

The parties agree as follows:

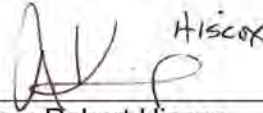
- 1) The Purchase Agreements are hereby amended as follows:
 - a) Notwithstanding any provision of either Purchase Agreement including Schedule “B” thereto, the property being acquired by the Purchaser pursuant thereto (collectively, the “**Property**”) is being acquired only to the state of the finishes existing as of the date of this Agreement, and no additional work will be required to be performed by the Vendor in respect of the Property.
 - b) The Property is being purchased on an “as is, where is” basis.
 - c) No representation or warranty, either express or implied, has been or will be given by the Vendor as to the title to or the boundaries of the Property, the condition of the Property, the environmental condition of the Property, soil and subsoil conditions, the zoning and other laws, by-laws, regulations, rules or codes applicable to the Property, the size, quality, quantity, fitness for purpose and/or marketability of the Property, or any other matter or thing affecting or related to the Property or any part thereof or the transaction contemplated by the Purchase Agreements.

- d) The Purchaser has not relied upon any representation or warranty or upon any offering material or other information furnished to the Purchaser by the Vendor or the Vendor's agent or any other person or entity including, without limitation, any reports, studies or assessments provided to the Purchaser by or on behalf of the Vendor.
- e) "Title Transfer Date" shall be the date that is two (2) business days after the date on which the Court approves the closing of the transactions contemplated by the Purchase Agreements, or such other date as the Vendor and Purchaser may mutually agree.
- f) The address provided for the Vendor in the Purchase Agreements for the purpose of providing notice shall be deleted and replaced with the following:

KSV Restructuring Inc.
 220 Bay Street, 13th Floor, PO Box 20
 Toronto, ON M5J 2W4
 Attention: Bobby Kofman
 Email: bkofman@ksvadvisory.com
- 2) The Vendor is executing this Agreement solely in its capacity as Court-appointed receiver and manager of the property, assets and undertaking of , among other things, the Property and not in personal or corporate capacity and none of the Vendor, KSV Restructuring Inc. or any of their respective directors, officers, agents, servants or employees shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof.
- 3) This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 4) Time shall be of the essence of this Agreement, and the Purchase Agreements, and all terms of the Purchase Agreements shall continue in full force and effect.
- 5) This Agreement shall enure to the benefit of and be binding upon the parties hereto their respective successors and assigns.
- 6) The parties hereto agree that notice of acceptance and delivery of the within offer and all communications thereto may be made by email, or other electronic means addressed to the parties hereto or their solicitors or their agents. The parties hereto agree pdf or other electronic copies shall constitute original copies.
- 7) This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first written above.

CONSTANTINE ENTERPRISES INC.

Handwritten signature of Robert Hiscox in black ink, with the name "Hiscox" written in a smaller font to the right of the signature.

Name: Robert Hiscox

Title: President

I have the authority to bind the Corporation

KSV RESTRUCTURING INC.

solely in its capacity

as Receiver and Manager of

the property, assets and undertaking of

MIZRAHI (128 Hazelton) INC.

and not in its personal capacity

Per: _____

Name: Robert Kofman

Title: President

I have the authority to bind the Corporation

AMENDMENT TO THE AGREEMENT OF PURCHASE AND SALE

BETWEEN: MIZRAHI (128 HAZELTON) INC. (the "Vendor") and CONSTANTINE ENTERPRISES INC. (the "Purchaser") Unit 01, Level 2, Suite 201 (the "Unit")

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

DELETE

- Paragraph 6 (h)

INSERT

- Paragraph 6 (h):

It is expressly understood and agreed by the parties hereto that the Purchase Price payable by the Purchaser hereunder is exclusive of the applicable harmonized goods and services tax or single sales tax exigible with respect to this purchase and sale transaction (referred to as the "HST"). The Purchaser shall also be solely responsible for any HST applicable to (or eligible in respect of) the forfeiture of all or any portion of the Purchaser's deposits paid hereunder as a result of the termination of this Agreement consequent upon the Purchaser's default. The Purchaser hereby warrants, covenants and agrees that the Purchaser is (or on the Title Transfer Date will be) registered under the Excise Tax Act, and shall be solely responsible for paying and remitting any applicable HST exigible whatsoever or howsoever in connection with this transaction, on its own, pursuant to the Excise Tax Act. Moreover, the Purchaser covenants and agrees to provide the Vendor, forthwith upon demand, and in any event prior to the Title Transfer Date, with evidence of the Purchaser's registration under the Excise Tax Act, which evidence shall be in a form acceptable to the Vendor in its sole and unfettered discretion, together with the undertaking of the Purchaser to self-assess and to indemnify the Vendor with respect to HST penalties in a form acceptable to the Vendor. If, prior to the Title Transfer Date, the Purchaser has not provided the Vendor with such satisfactory evidence that the Purchaser is registered under the Excise Tax Act, then the Purchaser shall pay to the Vendor on the Title Transfer Date the amount of any HST payable in this transaction, notwithstanding that same may not have been formally or finally levied and/or payable by the Title Transfer Date. In the event that the Purchaser fails to pay and/or reimburse the Vendor with respect to such taxes (including without limitation, the Purchaser's failure to pay or remit to the Vendor on the Title Transfer Date the HST exigible in connection with this transaction), and the Purchaser fails to provide satisfactory evidence to the Vendor that the Purchaser is registered under the Excise Tax Act, then in addition to any other rights or remedies available to the Vendor at law or in equity, the Vendor shall have the unilateral right to terminate this agreement by delivering a notice to that effect to the Purchaser at any time on or before the Title Transfer Date, and all monies theretofore paid by the Purchaser to the Vendor shall be forfeited to the Vendor as its liquidated damages, and not as a penalty, without prejudice to the Vendor's pursuit of a claim in damages against the Purchaser as a result of the Purchaser's default.

- The Vendor and the Purchaser agree that the Purchaser has the right to assign the unit for a fee \$1500.00+HST. Schedule F - Parking

This agreement or any amendment or addendum thereto may, at the Vendor's option, be properly delivered if delivered by facsimile transmission or if a copy of same is computer scanned and forwarded by electronic mail to the other party.

DATED this 3th day of December, 2016.

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

SIGNED, SEALED AND DELIVERED in the presence of

[Handwritten signature]

[Handwritten signature] Purchaser

DATED this _____ day of December, 2016.

MIZRAHI (128 HAZELTON) INC.

Per: [Handwritten signature] c/s Authorized Signing Officer

I have the authority to bind the Corporation

AGREEMENT OF PURCHASE AND SALE

The undersigned, CONSTANTINE ENTERPRISES INC (collectively, the "Purchaser"), hereby agrees with MIZRAHI (128 HAZELTON) INC. (the "Vendor") to purchase the above-noted unit, as outlined for identification purposes only on the sketch attached hereto as Schedule "A", together with ONE (1) Parking Unit(s), and ONE (1) Locker Unit(s), which shall be allocated by the Vendor in its sole discretion being (a) proposed unit(s) in the Condominium, to be registered against those lands and premises situate in the City of Toronto and which are currently municipally known as 126 and 128 Hazelton Avenue (hereinafter called the "Property"), together with an undivided interest in the common elements appurtenant to such unit(s) and the exclusive use of those parts of the common elements attaching to such unit(s), as set out in the proposed Declaration (collectively, the "Unit") on the following terms and conditions:

1. The purchase price of the Unit (the "Purchase Price") is NINE HUNDRED FIFTY EIGHT THOUSAND (\$958,000.00) DOLLARS in lawful money of Canada, payable as follows:
 - (a) to Harris, Sheaffer LLP, in Trust, (the "Vendor's Solicitors" or "Escrow Agent" or "Trustee") in the following amounts at the following times, by cheque or bank draft, as deposits pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Occupancy Date:
 - (i) The sum of NINETY FIVE THOUSAND EIGHT HUNDRED (\$95,800.00) Dollars (being 10% of the Purchase Price) submitted with this Agreement;
 - (ii) The sum of NINETY FIVE THOUSAND EIGHT HUNDRED (\$95,800.00) Dollars (being 10% of the Purchase Price) submitted with this Agreement and post-dated three hundred and sixty-five (365) days following the date of execution of this Agreement by the Purchaser; and
 - (iii) The sum of ONE HUNDRED FORTY THREE THOUSAND SEVEN HUNDRED (\$143,700.00) Dollars (being 15% of the Purchase Price) on the Occupancy Date.
 - (b) the balance of the Purchase Price by certified cheque on the Title Transfer Date to the Vendor or as the Vendor may direct, subject to the adjustments hereinafter set forth.
2.
 - (a) The Purchaser shall occupy the Unit on the First Tentative Occupancy Date [as defined in the Statement of Critical Dates being part of the Tarion Addendum as hereinafter defined], or such extended or accelerated date that the Unit is substantially completed by the Vendor for occupancy by the Purchaser in accordance with the terms of this Agreement including, without limitation, the Tarion Addendum (the "Occupancy Date").
 - (b) The transfer of title to the Unit shall be completed on the later of the Occupancy Date or a date established by the Vendor in accordance with Paragraph 14 hereof (the "Title Transfer Date").
 - (c) The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is the address set out in the Tarion Addendum.
 - (d) Notwithstanding anything contained in this Agreement (or in any schedules annexed hereto) to the contrary, it is expressly understood and agreed that if the Purchaser has not executed and delivered to the Vendor or its sales representative an acknowledgement of receipt of both the Vendor's disclosure statement and a copy of this Agreement duly executed by both parties hereto, within fifteen (15) days from the date of the Purchaser's execution of this Agreement as set out below, then the Purchaser shall be deemed to be in default hereunder and the Vendor shall have the unilateral right to terminate the Agreement at any time thereafter upon delivering written notice confirming such termination to the Purchaser, whereupon the Purchaser's initial deposit cheque shall be forthwith returned to the Purchaser by or on behalf of the Vendor.

The following Schedules of this Agreement, if attached hereto, shall form a part of this Agreement. The Purchaser acknowledges that he has read all Sections and Schedules of this Agreement and the form of Acknowledgement, if any:

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

DATED, signed, sealed and delivered this 8th day of Dec, 201 .

SIGNED, SEALED AND DELIVERED in the presence of

WITNESS:
(as to all Purchaser's signatures, if more than

[Signature]
PURCHASER: CONSTANTINE ENTERPRISES INC.
ASO: ROBERT HISCOX

PURCHASER'S SOLICITOR: David Nakelsky davidn@gsnh.com
Address: 1600-480 University Avenue Toronto, Ontario M5G 1V2
Telephone: 416-597-9922 x 396 Facsimile: 416-597-3370



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

DATED, signed, sealed and delivered, this _____ day of _____, 201 .

Vendor's Solicitors: MIZRAHI (128 HAZELTON) INC.

HARRIS, SHEAFFER LLP
Suite 610 - 4100 Yonge Street
Toronto, Ontario, M2P 3B5
Attn: Jeffrey P. Silver
Telephone: (416) 250-5800 Fax: (416) 250-5300

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



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

Finishes

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

Deposits

5. (a) The Vendor shall credit the Purchaser with interest at the prescribed rate on either the Occupancy Date or Title Transfer Date at the Vendor's sole discretion on all money received by the Vendor on account of the Purchase Price from the date of deposit of the money received from time to time by the Vendor's Solicitors or the Trustee until the Occupancy Date. The Purchaser acknowledges and agrees that, for the purposes of subsection 81(6) of the Act, compliance with the requirement to provide written evidence, in the form prescribed by the Act, of payment of monies by or on behalf of the Purchaser on account of the Purchase Price of the Unit shall be deemed to have been sufficiently made by delivery of such written evidence to the address of the Purchaser noted in the Tarion Addendum. The Purchaser further acknowledges and agrees that any cheques provided to the Vendor on account of the Purchase Price will not be deposited and accordingly interest as prescribed by the Act will not accrue thereon, until after the expiry of the ten (10) day rescission period as provided for in section 73 of the Act (or any extension thereof as may be agreed to in writing by the Vendor). The Purchaser represents and warrants that the Purchaser is not a non-resident of Canada within the meaning of the Income Tax Act of Canada (the "ITA"). If the Purchaser is not a resident of Canada for the purposes of the ITA the Vendor shall be entitled to withhold and remit to CRA the appropriate amount of interest payable to the Purchaser on account of the deposits paid hereunder, under the ITA.
- (b) All deposits paid by the Purchaser shall be held by the Escrow Agent in a designated trust account, and shall be released only in accordance with the provisions of subsection 81(7) of the Act and the regulations thereto, as amended. Without limiting the generality of the foregoing, and for greater clarity, it is understood and agreed that with respect to any deposit monies received from the Purchaser the Escrow Agent shall be entitled to withdraw such deposit monies from said designated trust account prior to the Title Transfer Date if and only when the Vendor obtains a Certificate of Deposit from TWC for deposit monies up to Twenty Thousand (\$20,000.00) Dollars and with respect to deposit monies in excess of Twenty Thousand (\$20,000.00) Dollars, one or more excess condominium deposit insurance policies (issued by any insurer as may be selected by the Vendor, authorized to provide excess condominium deposit insurance in Ontario) insuring the deposit monies so withdrawn (or intended to be withdrawn), and delivers the said excess condominium deposit insurance policies (duly executed by or on behalf of the insurer and the Vendor) to the Escrow Agent holding the deposit monies for which said policies have been provided as security, in accordance with the provisions of section 21 of O. Reg. 48/01. Furthermore and without limiting the generality of the foregoing, the Vendor's Solicitors, Escrow Agent or the Trustee shall be permitted, upon written instructions from the Vendor, to transfer any and all deposits in its possession to another solicitor

representing the Vendor or replacement escrow agent, provided that such solicitor or replacement escrow agent undertakes to the Vendor's Solicitors, Escrow Agent or the Trustee to comply with the provisions of section 81 of the Act and to notify the Purchaser within 15 days of the transfer of such funds that it is now holding the deposits as escrow agent pursuant to the terms of the Act and this Agreement. Upon the transfer of the deposits in accordance with this paragraph, the Vendor's Solicitors, Escrow Agent or the Trustee shall have no further obligations to the Purchaser in its capacity as the escrow agent of the deposits and shall automatically be released from further liability as escrow agent of such deposits.

Adjustments

6. (a) Commencing as of the Occupancy Date, the Purchaser shall be responsible and be obligated to pay the following costs and/or charges in respect to the Unit:
- (i) all utility costs including electricity, gas and water (unless included as part of the common expenses); and
 - (ii) the Occupancy Fee owing by the Purchaser for Interim Occupancy prior to the Title Transfer Date (if applicable).
- (b) The Purchase Price shall be adjusted to reflect the following items, which shall be apportioned and allowed from the Title Transfer Date, with that day itself apportioned to the Purchaser:
- (i) realty taxes (including local improvement charges pursuant to the *Local Improvement Charges Act*, if any) which may be estimated as if the Unit has been assessed as fully completed by the taxing authority for the calendar year in which the transaction is completed as well as for the following calendar year, notwithstanding the same may not have been levied or paid on the Title Transfer Date. The Vendor shall be entitled in its sole discretion to collect from the Purchaser a reasonable estimate of the taxes as part of the Occupancy Fee and/or such further amounts on the Title Transfer Date, provided all amounts so collected shall either be remitted to the relevant taxing authority on account of the Unit or held by the Vendor pending receipt of final tax bills for the Unit, following which said realty taxes shall be readjusted in accordance with subsections 80(8) and (9) of the Act; and
 - (ii) common expense contributions attributable to the Unit, with the Purchaser being obliged to provide the Vendor on or before the Title Transfer Date with a series of post-dated cheques payable to the condominium corporation for the common expense contributions attributable to the Unit, for such period of time after the Title Transfer Date as determined by the Vendor (but in no event for more than one year).
- (c) Interest on all money paid by the Purchaser on account of the Purchase Price, shall be adjusted and credited to the Purchaser in accordance with paragraph 5 of this Agreement.
- (d) The Purchaser shall, in addition to the Purchase Price, pay the following amounts to the Vendor on the Title Transfer Date:
- (i) Any new taxes imposed on the Unit by the federal, provincial, or municipal government or any increases to existing taxes currently imposed on the Unit by such government.
 - (ii) Any amounts which remain unpaid and owing to the Vendor on account of upgrades and/or extras and/or changes ordered by the Purchaser.
 - (iii) The amount of any increase in development charge(s) and/or education development charge(s) (the "Levies") assessed against or attributable to the Unit (or assessed against the Property or any portion thereof, and attributable to the Unit by either pro-rating same in accordance with the proportion or percentage of common interests attributable thereto or by dividing same by the number of residential units in the Condominium), pursuant to the *Development Charges Act 1997*, S.O. 1997, as amended from time to time, and the *Education Act*, S.O. 1997, as amended from time to time, over the amount of such charges that would be exigible as of November 11, 2015 and the amount of any new Levies that were not exigible as of November 11, 2015 with respect to the Property and were subsequently assessed against the Property or attributable to the Unit.
 - (iv) The cost of the TWC enrolment fee for the Unit (together with any provincial or federal taxes exigible with respect thereto).
 - (v) The cost of utility meters, water meter installations, hydro and gas meter or check meter installations, water and sewer service connection charges and hydro and gas installation and connection or energization charges for the Condominium and/or the Unit, the Purchaser's portion of such installation and/or connection or energization charges and costs to be calculated by dividing the total amount of such charges and costs by the number of residential dwelling units in the Condominium and by charging the Purchaser in the statement of adjustments with that portion of the charges and costs, provided that such amounts shall not exceed One Thousand Dollars (\$1,000.00).
 - (vi) The charge imposed upon the Vendor or its solicitors by the Law Society of Upper Canada upon registration of a Transfer/Deed of Land or Charge/Mortgage of Land or any other instrument.
 - (vii) A sum of Fifty (\$50.00) for each cheque tendered pursuant to paragraphs 1(a) of this Agreement representing a reasonable reimbursement to the Vendor of the costs incurred or to be incurred by the Vendor in fulfillment of the requirements of subsection 81(6) of the Act.

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

then notwithstanding anything hereinbefore or hereinafter provided to the contrary, the Purchaser shall be obliged to pay to the Vendor (or to whomsoever the Vendor may in writing direct), by certified cheque delivered on the Title Transfer Date, an amount equivalent to the Rebate, in addition to the Purchase Price and in those circumstances where the Purchaser maintains that he is eligible for the Rebate despite the Vendor's belief to the contrary, the Purchaser shall (after payment of the amount equivalent to the Rebate as aforesaid) be fully entitled to pursue the procurement of the Rebate directly from CRA. It is further understood and agreed that in the event that the Purchaser intends to rent out the Unit before or after the Title Transfer Date, the Purchaser shall not be entitled to the Rebate, but may nevertheless be entitled to pursue, on

his or her own after the Title Transfer Date, the federal and provincial new rental housing rebates directly with CRA, pursuant to section 256.2 of the *Excise Tax Act*, as may be amended, and other applicable legislation to be enacted relating to the provincial new rental housing rebate.

- (i) Notwithstanding any other provision herein contained in this Agreement, the Purchaser acknowledges and agrees that the Purchase Price does not include any HST exigible with respect to any of the adjustments payable by the Purchaser pursuant to this Agreement, or any extras or upgrades or changes purchased, ordered or chosen by the Purchaser from the Vendor which are not specifically set forth in this Agreement, and the Purchaser covenants and agrees to pay such HST to the Vendor in accordance with the *Excise Tax Act*.
- (j) An administration fee of TWO HUNDRED AND FIFTY (\$250.00) DOLLARS shall be charged to the Purchaser for any cheque payable hereunder delivered to the Vendor or to the Vendor's Solicitors and not accepted by the Vendor's or the Vendor's Solicitor's bank for any reason. At the Vendor's option, this administration fee can be collected as an adjustment on the Title Transfer Date or together with the replacement cheque delivered by the Purchaser.

Title

- 7. The Vendor or its Solicitor shall notify the Purchaser or his/her Solicitor following registration of the Creating Documents so as to permit the Purchaser or his/her Solicitor to examine title to the Unit (the "Notification Date"). The Purchaser shall be allowed twenty (20) days from the Notification Date (the "Examination Period") to examine title to the Unit at the Purchaser's own expense and shall not call for the production of any surveys, title deeds, abstracts of title, grading certificates, occupancy permits or certificates, nor any other proof or evidence of the title or 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. Save as to any valid objections so made within the Examination Period, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Unit. The Purchaser acknowledges and agrees that the Vendor shall be entitled to respond to some or all of the requisitions submitted by or on behalf of the Purchaser through the use of a standard title memorandum or title advice statement prepared by the Vendor's Solicitors, and that same shall constitute a satisfactory manner of responding to the Purchaser's requisitions, thereby relieving the Vendor and the Vendor's Solicitors of the requirement to respond directly or specifically to the Purchaser's requisitions.

Direction Re: Title

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

Permitted Encumbrances

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

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

Vendor's Lien

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

Partial Discharges

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

Construction Lien Act

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

The Planning Act

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

Title Transfer Date

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

Purchaser's Covenants, Representations and Warranties

15. The Purchaser covenants and agrees that this Agreement is subordinate to and postponed to any mortgages arranged by the Vendor and any advances thereunder from time to time, and to any easement, license or other agreement concerning the Condominium and the Condominium Documents. The Purchaser further agrees to consent to and execute all documentation as may be required by the Vendor in this regard and the Purchaser hereby irrevocably appoints the Vendor as the Purchaser's attorney to execute any consents or other documents required by the Vendor to give effect to this paragraph. The Purchaser hereby consents to the Vendor obtaining a consumer's report containing credit and/or personal information for the purposes of this transaction. The Purchaser further agrees to deliver to the Vendor, from time to time, within ten (10) days of written demand from the Vendor, all necessary financial and personal information required by the Vendor in order to evidence the Purchaser's ability to pay the balance of the Purchase Price on the Title Transfer Date, including without limitation, written confirmation of the Purchaser's income and evidence of the source of the payments required to be made by the Purchaser in accordance with this Agreement. Without limiting the generality of the foregoing and notwithstanding any other provision in this Agreement to the contrary, within ten (10) days of written demand from the Vendor, the Purchaser agrees to produce evidence of a satisfactory mortgage approval signed by a lending institution or other mortgagee acceptable to the Vendor confirming that the said lending institution or acceptable mortgagee will be advancing funds to the Purchaser sufficient to pay the balance due on the Title Transfer Date. If the Purchaser fails to provide the mortgage approval as aforesaid, then the Purchaser shall be deemed to be in default under this Agreement. The Vendor may, in its sole discretion, elect to accept in the place of such mortgage commitment, other evidence satisfactory to the Vendor that the Purchaser will have sufficient funds to pay the balance due on the Title Transfer Date.
16. The Purchaser acknowledges that notwithstanding any rule of law to the contrary, that by executing this Agreement, it has not acquired any equitable or legal interest in the Unit or the Property. The Purchaser covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, Purchaser's Lien, or any other document providing evidence of this Agreement against title to the Property, Unit or the Condominium and further agrees not to give, register, or permit to be registered any encumbrance against the Property, Unit or the Condominium. Should the Purchaser be in default of his or her obligations hereunder, the Vendor may, as agent and attorney of the Purchaser, cause the removal of notice of this Agreement, caution or other document providing evidence of this Agreement or any assignment thereof, from the title to the Property, Unit or the Condominium. In addition, the Vendor, at its option, shall have the right to declare this Agreement null and void in accordance with the provisions of paragraph 25 hereof. The Purchaser hereby irrevocably consents to a court order removing such notice of this Agreement, any caution, or any other document or instrument whatsoever from title to the Property, Unit or the Condominium and the Purchaser agrees to pay all of the Vendor's costs and expenses in obtaining such order (including the Vendor's Solicitor's fees on a full indemnity basis).
17. The Purchaser covenants not to list for sale or lease, advertise for sale or lease, sell or lease, nor in any way assign his or her interest under this Agreement, or the Purchaser's rights and interests hereunder or in the Unit, nor directly or indirectly permit any third party to list or advertise the Unit for sale or lease, at any time until after the Title Transfer Date, without the prior written consent of the Vendor, which consent may be arbitrarily withheld. The Purchaser acknowledges and agrees that once a breach of the preceding covenant occurs, such breach is or shall be incapable of rectification, and accordingly the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement and the Occupancy License, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default, shall apply. The Purchaser shall be entitled to direct that title to the Unit be taken in the name of his or her spouse, or a member of his or her immediate family only, and shall not be permitted to direct title to any other third parties.
18. The Purchaser acknowledges that the Vendor is (or may in the future be) processing and/or completing one or more rezoning or minor variance applications with respect to the Property (and/or the lands adjacent thereto or in the neighbouring vicinity thereof), as a well as a site plan approval/development application/draft plan of condominium approval with respect to the Property, in order to permit the development and construction of the Condominium thereon. The Purchaser acknowledges that during the rezoning, minor variance, site plan and/or draft plan of condominium approval process, the footprint or siting of the condominium building may shift from that originally proposed or intended, the overall height of the condominium building (and the number of levels/floors, and/or the number of dwelling units comprising the Condominium) may vary, and the location of the Condominium's proposed amenities may likewise be altered, without materially affecting the floor plan layout, design and size of the interior of the Unit, and the Purchaser hereby expressly agrees to complete this transaction notwithstanding the foregoing, without any abatement in the Purchase Price, and without any entitlement to a claim for damages or other compensation whatsoever. The Purchaser further covenants and agrees that it shall not oppose the aforementioned zoning, minor variance and site plan/development applications, nor any other applications ancillary thereto, including without

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

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

Termination without Default

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

Tarion Warranty Corporation

21. The Vendor represents and warrants to the Purchaser that the Vendor is a registered vendor/builder with the TWC. The Purchaser acknowledges and agrees that any warranties of workmanship or materials, in respect of any aspect of the construction of the Condominium including the Unit, whether implied by this Agreement or at law or in equity or by any statute or otherwise, shall be limited to only those warranties deemed to be given by the Vendor under the ONHWPA and shall extend only for the time period and in respect of those items as stated in the ONHWPA, it being understood and agreed that there is no representation, warranty, guarantee, collateral agreement, or condition precedent to, concurrent with or in any way affecting this Agreement, the Condominium or the Unit, other than as expressed herein. The Purchaser hereby irrevocably appoints the Vendor his/her agent to complete and execute the TWC Certificate of Deposit and any excess condominium deposit insurance documentation in this regard, as required, both on its own behalf and on behalf of the Purchaser.

Right of Entry

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

Occupancy

23. (a) Except where the Purchaser and the Vendor have agreed that the Purchaser shall be responsible for certain conditions of occupancy and subject to paragraph 9 of the Tarion Addendum, the Unit shall be deemed to be substantially completed when the interior work has been finished to the minimum standards allowed by the Municipality so that the Unit may be lawfully occupied notwithstanding that there remains other work within the Unit and/or the common elements to be completed. Except where the Purchaser is responsible for certain conditions of occupancy, the Purchaser shall not occupy the Unit until the Municipality has permitted same or consented thereto, if such consent is required and the Occupancy Date shall be postponed until such required consent is given. The Purchaser shall not require the Vendor to provide or produce an occupancy permit, certificate or authorization from the Municipality other than the documentation required by paragraph 9 of the Tarion Addendum. Provided that the Vendor complies with paragraph 9 of the Tarion Addendum, the Purchaser acknowledges that the failure to complete the common elements before the Occupancy Date shall not be deemed to be failure to complete the Unit, and the Purchaser agrees to complete this transaction notwithstanding any claim submitted to the Vendor and/or to the TWC in respect of apparent deficiencies or incomplete work provided, always, that such incomplete work does not prevent occupancy of the Unit as, otherwise, permitted by the Municipality.
- (b) If the Unit is substantially complete and fit for occupancy on the Occupancy Date, as provided for in subparagraph (a) above, but the Creating Documents have not been registered, (or in the event the Condominium is registered prior to the Occupancy Date and closing documentation has yet to be prepared), the Purchaser shall pay to the Vendor a further amount on account of the Purchase Price specified in paragraph 1(a) hereof without adjustment save for any pro-rated portion of the Occupancy Fee described and calculated in Schedule "C", and the Purchaser shall occupy the Unit on the Occupancy Date pursuant to the Occupancy Licence attached hereto as Schedule "C".

Inspection

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

event that the Vendor performs any additional work to the Unit in its discretion, the Vendor shall not be deemed to have waived the provision of this paragraph or otherwise enlarged its obligations hereunder.

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

Purchaser's Default

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

Common Elements

26. The Purchaser acknowledges that the Condominium will be constructed to Ontario Building Code requirements at the time of issuance of the building permit. The Purchaser covenants and agrees the Purchaser shall have no claims against the Vendor for any equal, higher or better standards of workmanship or materials. The Purchaser agrees that the

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

Executions

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

Risk

28. The Unit shall be and remain at the risk of the Vendor until the Title Transfer Date, subject to the terms of the Occupancy Licence attached hereto as Schedule "C". If any part of the Condominium is damaged before the Creating Documents are registered, the Vendor may in its sole discretion either:
- (a) make such repairs as are necessary to complete this transaction and, if necessary, delay the Occupancy Date in the manner permitted under the Tarion Addendum;
 - (b) terminate this Agreement and return to the Purchaser all deposit monies paid by the Purchaser to the Vendor, with interest payable under law if the damage to the Condominium has frustrated this Agreement at law; or
 - (c) apply to a court of competent jurisdiction for an order terminating the Agreement in accordance with the provisions of subsection 79(3) of the Act,

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

Tender/Termet

29. (a) The parties waive personal tender and agree that tender, in the absence of any other mutually acceptable arrangement and subject to the provisions of paragraph 30 of this Agreement shall be validly made by the Vendor upon the Purchaser, by a representative of the Vendor attending at the offices of Harris, Sheaffer, LLP at 12:00 noon on the Title Transfer Date or the Occupancy Date as the case may be and remaining there until 5:00 p.m. and is ready, willing and able to complete the transaction. The Purchaser agrees that keys may be released to the Purchaser as the construction site or sales office on the Occupancy Date or the Title Transfer Date, as applicable. The Vendor's advice that the keys are available shall be valid tender of possession of the Property to the Purchaser. In the event the Purchaser or his or her solicitor fails to appear or appears and fails to close, such attendance by the Vendor's representative (which includes the Vendor's Solicitors) shall be deemed satisfactory evidence that the Vendor is ready, willing and able to complete the sale at such time. Payment shall be tendered by certified cheque drawn on any Canadian chartered bank; and
- (b) It is further provided that, notwithstanding subparagraph 29 (a) hereof, in the event the Purchaser or his or her solicitor advise the Vendor or its Solicitors, on or before the Occupancy Date or Title Transfer Date, as applicable, that the Purchaser is unable or unwilling to complete the purchase or take occupancy, the Vendor is relieved of any obligation to make any formal tender upon the Purchaser or his or her solicitor and may exercise forthwith any and all of its right and remedies provided for in this Agreement and at law.
30. As the electronic registration system (hereinafter referred to as the "Teraview Electronic Registration System" or "TERS") is operative in the applicable Land Titles Office in which the Property is registered, then at the option of the Vendor's solicitor, the following provisions shall prevail:
- (a) The Purchaser shall be obliged to retain a solicitor, who is both an authorized TERS user and in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction. The Purchaser shall authorize such solicitor to, at the option of the Vendor's Solicitors, either execute an escrow closing agreement with the Vendor's Solicitor on the standard form recommended by the Law Society of Upper Canada (hereinafter referred to as the "Escrow Document Registration Agreement") establishing the procedures and timing for completing this transaction or to otherwise agree to be bound by the procedures set forth in the Escrow Document Registration Agreement.
 - (b) The delivery and exchange of documents, monies and keys to the Unit and the release thereof to the Vendor and the Purchaser, as the case may be:
 - (i) shall not occur contemporaneously with the registration of the Transfer/Deed (and other registerable documentation); and
 - (ii) shall be governed by the Escrow Document Registration Agreement, pursuant to which the solicitor receiving the documents, keys and/or certified funds will be required to hold same in escrow, and will not be entitled to release same except in strict accordance with the provisions of the Escrow Document Registration Agreement.

- (c) If the Purchaser's solicitor is unwilling or unable to complete this transaction via TERS, in accordance with the provisions contemplated under the Escrow Document Registration Agreement, then said solicitor (or the authorized agent thereof) shall be obliged to personally attend at the office of the Vendor's Solicitors, at such time on the Title Transfer Date as may be directed by the Vendor's solicitor or as mutually agreed upon, in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's Solicitors' office, and shall pay a fee as determined by the Vendor's Solicitors, acting reasonably for the use of the Vendor's computer facilities.
- (d) The Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the Transfer/Deed to the Unit for registration until the balance of funds due on closing, in accordance with the statement of adjustments, are either remitted by certified cheque via personal delivery or by electronic funds transfer to the vendor's solicitor (or in such other manner as the latter may direct) prior to the release of the Transfer/Deed for registration.
- (e) Each of the parties hereto agrees that the delivery of any documents not intended for registration on title to the Unit may be delivered to the other party hereto by telefax transmission (or by a similar system reproducing the original or by electronic transmission of electronically signed documents through the Internet), provided that all documents so transmitted have been duly and properly executed by the appropriate parties/signatories thereto which may be by electronic signature. The party transmitting any such document shall also deliver the original of same (unless the document is an electronically signed document pursuant to the *Electronic Commerce Act*) to the recipient party by overnight courier sent the day of closing or within 7 business days of closing, if same has been so requested by the recipient party.
- (f) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been validly made by the Vendor upon the Purchaser when the Vendor's solicitor has:
- (i) delivered all closing documents and/or funds to the Purchaser's solicitor in accordance with the provisions of the Escrow Document Registration Agreement and keys are made available for the Purchaser to pick up at the Vendor's sales of customer service office;
 - (ii) advised the Purchaser's solicitor, in writing, that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
 - (iii) has completed all steps required by TERS in order to complete this transaction that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's solicitor, and specifically when the "completeness signatory" for the transfer/deed has been electronically "signed" by the Vendor's Solicitors;

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

General

31. The Vendor shall provide a statutory declaration on the Title Transfer Date that it is not a non-resident of Canada within the meaning of the ITA.
32. The Vendor and Purchaser agree to pay the costs of registration of their own documents and any tax in connection therewith.
33. The Vendor and the Purchaser agree that there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Property or supported hereby other than as expressed herein in writing.
34. This Offer and its acceptance is to be read with all changes of gender or number required by the context and the terms, provisions and conditions hereof shall be for the benefit of and be binding upon the Vendor and the Purchaser, and as the context of this Agreement permits, their respective heirs, estate trustees, successors and permitted assigns.
35. The Purchaser acknowledges that the suite area of the Unit, as may be represented or referred to by the Vendor or any sales agent, or which appear in any sales material is approximate only, and is generally measured to the outside of all exterior, corridor and stairwell walls, and to the centre line of all party walls separating one unit from another. NOTE: For more information on the method of calculating the floor area of any unit, reference should be made to Builder Bulletin No. 22 published by the TWC. Actual useable floor space may (therefore) vary from any stated or represented floor area or gross floor area, and the extent of the actual or useable living space within the confines of the Unit may vary from any represented square footage or floor area measurement(s) made by or on behalf of the Vendor. In addition, the Purchaser is advised that the floor area measurements are generally calculated based on the middle floor of the Condominium building for each suite type, such that units on lower floors may have less floor space due to thicker structural members, mechanical rooms, etc., while units on higher floors may have more floor space. Accordingly, the Purchaser hereby confirms and agrees that all details and dimensions of the Unit purchased hereunder are approximate only, and that the Purchase Price shall not be subject to any adjustment or claim for compensation whatsoever, whether based upon the ultimate square footage of the Unit, or the actual or useable living space within the confines of the Unit or otherwise. The Purchaser further acknowledges that the ceiling height of the Unit is measured from the upper surface of the concrete floor slab (or subfloor) to the underside surface of the concrete ceiling slab (or joists). However, where ceiling bulkheads are installed within the Unit, and/or where dropped ceilings are required, then the ceiling height of the Unit will be less than that represented, and the Purchaser shall correspondingly be obliged to accept the same without any abatement or claim for compensation whatsoever.
36. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
37. The headings of this Agreement form no part hereof and are inserted for convenience of reference only.
38. Each of the provisions of this Agreement shall be deemed independent and severable and the invalidity or unenforceability in whole or in part of any one or more of such provisions shall not be deemed to impair or affect in

any manner the validity, enforceability or effect of the remainder of this Agreement, and in such event all the other provisions of this Agreement shall continue in full force and effect as if such invalid provision had never been included herein. The Purchaser and the Vendor acknowledge and agree that this Agreement and all amendments and addenda thereto shall constitute an agreement made under seal.

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

Notice

40. (a) Any notice required to be delivered under the provisions of the Tarion Addendum shall be delivered in the manner required by the Tarion Addendum.
- (b) Any other notice given pursuant to the terms of this Agreement shall be deemed to have been properly given if it is in writing and is delivered by hand, ordinary prepaid post, facsimile transmission or electronic mail to the attention of the Purchaser or to the Purchaser's solicitor to their respective addresses indicated herein or to the address of the Unit after the Occupancy Date and to the Vendor at 126 Hazelton Avenue, Toronto, Ontario, M5R 2E5 or to the Vendor's Solicitors at the address indicated in this Agreement or such other address as may from time to time be given by notice in accordance with the foregoing. Such notice shall be deemed to have been received on the day it was delivered by hand, by electronic mail or by facsimile transmission and upon the third day following posting, excluding Saturdays, Sundays and statutory holidays. This agreement or any amendment or addendum thereto may, at the Vendor's option, be properly delivered if it delivered by facsimile transmission or if a copy of same is computer scanned and forwarded by electronic mail to the other party.

Material Change

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

and that the Purchaser shall have absolutely no claim or cause of action whatsoever against the Vendor or its sales representatives (whether based or founded in contract, tort or in equity) for any such changes, deletions, alterations or modifications, nor shall the Purchaser be entitled to any abatement or reduction in the Purchase Price whatsoever as a consequence thereof, nor any notice thereof (unless any such change, deletion, alteration or modification to the said plans and specifications is material in nature (as defined by the Act) and significantly affects the fundamental character, use or value of the Unit and/or the Condominium, in which case the Vendor shall be obliged to notify the Purchaser in writing of such change, deletion, alteration or modification as soon as reasonably possible after the Vendor proposes to implement same, or otherwise becomes aware of same), and where any such change, deletion, alteration or

modification to the said plans and specifications is material in nature, then the Purchaser's only recourse and remedy shall be the termination of this Agreement prior to the Title Transfer Date (and specifically within 10 days after the Purchaser is notified or otherwise becomes aware of such material change), and the return of the Purchaser's deposit monies, together with interest accrued thereon at the rate prescribed by the Act.

Cause of Action/Assignment

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

Non-Merger

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

Notice/Warning Provisions

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

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

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

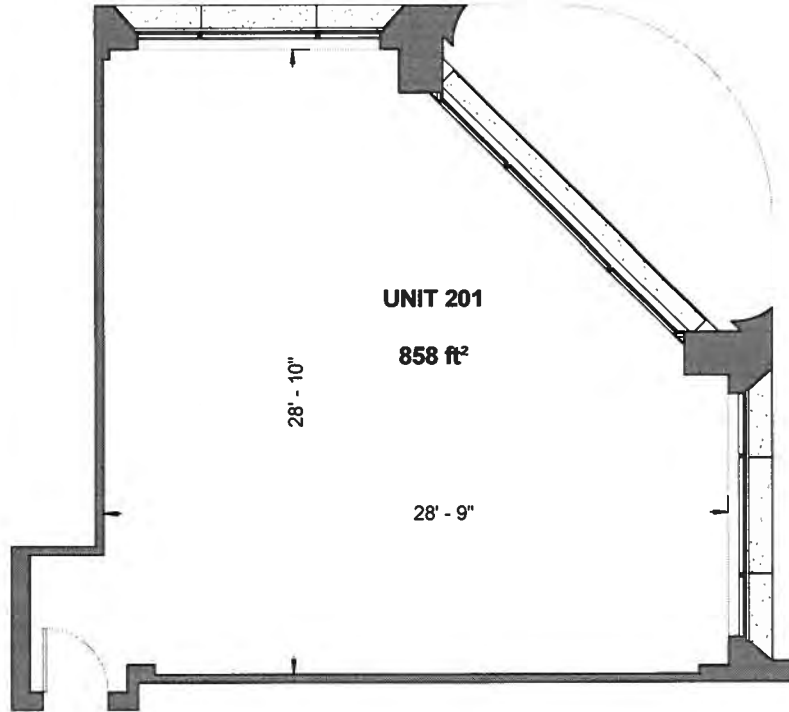
- (e) any financial institution(s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, with respect to the Unit, including without limitation, the Vendor's construction lender(s), the quantity surveyor monitoring the Project and its costs, the Vendor's designated construction lender(s), the Tarion Warranty Corporation and/or any warranty bond provider and/or excess condominium deposit insurer, required in connection with the development and/or construction financing of the Condominium and/or the financing of the Purchaser's acquisition of the Property from the Vendor;
- (f) any insurance companies of the Vendor providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof) and/or the common elements of the Condominium, and any title insurance companies providing (or wishing to provide) title insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of this transaction;
- (g) any trades/suppliers or sub-trades/suppliers, who have been retained by or on behalf of the Vendor (or who are otherwise dealing with the Vendor) to facilitate the completion and finishing of the Unit and the installation of any extras or upgrades ordered or requested by the Purchaser;
- (h) one or more providers of cable television, telephone, telecommunication, security alarm systems, hydro-electricity, chilled water/hot water, gas and/or other similar or related services to the Property (or any portion thereof) and/or the Condominium (collectively, the "Utilities"), unless the Purchaser gives the Vendor prior notice in writing not to disclose the Purchaser's personal information to one or more of the Utilities;
- (i) one or more third party data processing companies which handle or process marketing campaigns on behalf of the Vendor or other companies that are associated with, related to or affiliated with the Vendor, and who may send (by e-mail or other means) promotional literature/brochures about new condominiums and/or related services to the Purchaser and/or members of the Purchaser's family, unless the Purchaser gives the Vendor prior notice in writing not to disclose the Purchaser's personal information to said third party data processing companies;
- (j) the Vendor's solicitors, to facilitate the interim occupancy and/or final closing of this transaction, including the closing by electronic means via the Teraview Electronic Registration System, and which may (in turn) involve the disclosure of such personal information to an internet application service provider for distribution of documentation;
- (k) any person, where the Purchaser further consents to such disclosure or disclosures required by law.

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

SCHEDULE "A" TO THE AGREEMENT OF PURCHASE AND SALE

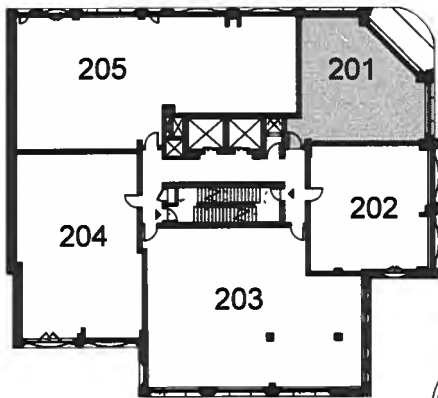
SKETCH

Level 2, Legal Unit No UNIT 1



SUITE AREA: 858 ft²

*AREAS PROVIDED BY KRCMAR SURVEYORS LTD.



*NOTE:
 -STRUCTURAL LAYOUT TO BE COORDINATED
 -COLUMNS MAY BE ADDED AS REQUIRED

Materials, specifications, floor plans and dimensions are subject to change without notice. Window sizes and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and balcony areas, subject to change E. & O.E.



[Signature]
 Purchaser Acknowledgement

8/12/16
 Date

SCHEDULE "B" TO THE AGREEMENT OF PURCHASE AND SALE

FEATURES AND FINISHES

- **Laundry Room**
 - Ceramic floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
 - High efficiency front loading Washer and Dryer selected from Vendor's standard selections
- **Living Room & Dining Room**
 - Pre-finished engineered Hardwood floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling lights
- **Foyer**
 - Pre-finished engineered Hardwood floor in entranceway selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Kitchen & Breakfast**
 - Kitchen cabinetry selected from Vendor's standard selections
 - Stone countertops with coordinated backsplash selected from Vendor's standard selections
 - Stainless steel sink with coordinated fixture selected from Vendor's standard selections
 - Pre-finished engineered Hardwood floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
 - Valence lighting under cabinets
 - Gas or Electric Cooktop, Oven, Dishwasher, Refrigerator, Microwave and Hood fan selected from Vendor's standard selections
- **Powder Room**
 - Vanity with stone countertop selected from Vendor's standard selections
 - Under-mounted sink and fixtures selected from Vendor's standard selections
 - Privacy lock
 - Stone tile floor selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Terraces/Balconies**
 - In selected suites as per plan
 - Railing as per architectural building design
 - Exterior lighting as per architectural building design
- **Library/Den**
 - Pre-finished engineered Hardwood floor or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Master Bedroom Suite**
 - Pre-finished engineered Hardwood floor or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Master Ensuite**
 - Stone tiles selected from Vendor's standard selections
 - Heated floor with thermostatic control
 - Vanity with stone countertop, under-mounted sink, and fixtures selected from Vendor's standard selections
 - Bathtub and coordinated fixtures as per plan
 - Frameless glass shower enclosure as per plan
 - L.E.D. recessed ceiling light
 - Privacy lock
- **Guest Bathroom**
 - Stone tiles selected from Vendor's standard selections
 - Vanity with stone countertop, under-mounted sink, and fixtures selected from Vendor's standard selections
 - Bathtub and coordinated fixtures as per plan
 - Frameless glass shower enclosure as per plan
 - L.E.D. recessed ceiling light
 - Privacy lock
- **Bedroom**
 - Pre-finished engineered Hardwood floors or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Ceilings, Walls & Doors**
 - Minimum of 10' high ceilings (dropped ceilings at Kitchen, Bathrooms, Closets, Foyer, Laundry Room and Mechanical Room)
 - Smooth ceilings, walls and bulkheads throughout
 - 7" Baseboards
 - 3 ½" Door casing with backband
 - Solid doors throughout
 - Door hardware selected from Vendor's standard selections
 - All ceilings, walls, baseboards, mouldings and doors to be painted.
 - Paint selected from Vendors standard selections
 - Energy Star custom windows with low E coating and argon gas
- **Mechanical**
 - Heat Pump with Humidifier and programmable thermostat
- **Lighting & Electrical**
 - White decorative switches and receptacles throughout
 - L.E.D. recessed ceiling light; 1 per 50 sq. feet
 - Ceiling light provision in Kitchen, Dining Room, Living Room and all Bedrooms
 - Valence lighting under kitchen cabinets
 - Rough-in for sconces and/or surface mounted fixtures in Master Ensuite and Powder Room
- **Technology**
 - Rough-in for cable, telephone, internet in Living Room, Kitchen, Library/Den and all Bedrooms

SCHEDULE "C" TO AGREEMENT OF PURCHASE AND SALE

TERMS OF OCCUPANCY LICENCE

- C.1 The transfer of title to the Unit shall take place on the Title Transfer Date upon which date, unless otherwise expressly provided for hereunder, the term of this Occupancy Licence shall be terminated.
- C.2 The Purchaser shall pay or have paid to the Vendor, on or before the Occupancy Date, by certified cheque drawn on a Canadian chartered bank the amount set forth in paragraph 1(a) of this Agreement without adjustment. Upon payment of such amount on the Occupancy Date, the Vendor grants to the Purchaser a licence to occupy the Unit from the Occupancy Date.

The Purchaser shall pay to the Vendor the Occupancy Fee calculated as follows:

- (a) the amount of interest payable in respect of the unpaid balance of the Purchase Price at the prescribed rate;
- (b) an amount reasonably estimated by the Vendor on a monthly basis for municipal realty taxes attributable by the Vendor to the Unit; and
- (c) the projected monthly common expense contribution for the Unit;

as an occupancy charge on the first day of each month in advance during Interim Occupancy, no part of which shall be credited as payments on account of the Purchase Price, but which payments shall be a charge for occupancy only. If the Occupancy Date is not the first day of the month, the Purchaser shall pay on the Occupancy Date a pro rata amount for the balance of the month by certified funds. The Purchaser shall deliver to the Vendor on or before the Occupancy Date a series of post-dated cheques as required by the Vendor for payment of the estimated monthly Occupancy Fee. The Occupancy Fee may be recalculated by the Vendor, from time to time based on revised estimates of the items which may be lawfully taken into account in the calculation thereof and the Purchaser shall pay to the Vendor such revised Occupancy Fee following notice from the Vendor. With respect to taxes, the Purchaser agrees that the amount estimated by the Vendor on account of municipal realty taxes attributed to the Unit shall be subject to recalculation based upon the real property tax assessment or reassessment of the Units and/or Condominium, issued by the municipality after the Title Transfer Date and the municipal tax mill rate in effect as at the date such assessment or reassessment is issued. The Occupancy Fee shall thereupon be recalculated by the Vendor and any amount owing by one party to the other shall be paid upon demand.

- C.3 The Purchaser shall be allowed to remain in occupancy of the Unit during Interim Occupancy provided the terms of this Occupancy Licence and the Agreement have been observed and performed by the Purchaser. In the event the Purchaser breaches the terms of occupancy the Vendor in its sole discretion and without limitation of any other rights or remedies provided for in this Agreement or at law may terminate this Agreement and revoke the Occupancy Licence whereupon the Purchaser shall be deemed a trespasser and shall give up vacant possession forthwith. The Vendor may take whatever steps it deems necessary to obtain vacant possession and the Purchaser shall reimburse the Vendor for all costs it may incur.
- C.4 At or prior to the time that the Purchaser takes possession of the Unit, the Purchaser shall execute and deliver to the Vendor any documents, directions, acknowledgments, assumption agreements or any and all other documents required by the Vendor pursuant to this Agreement, in the same manner as if the closing of the transaction was taking place at that time.
- C.5 The Purchaser shall pay the monthly Occupancy Fee during Interim Occupancy and the Vendor shall destroy all unused post-dated Occupancy Fee cheques on or shortly after the Title Transfer Date.
- C.6 The Purchaser agrees to maintain the Unit in a clean and sanitary condition and not to make any alterations, improvements or additions thereto without the prior written approval of the Vendor which may be unreasonably withheld. The Purchaser shall be responsible for all utility, telephone expenses, cable television service, or other charges and expenses billed directly to the occupant of the Unit by the supplier of such services and not the responsibility of the Condominium under the Condominium Documents.
- C.7 The Purchaser's occupancy of the Unit shall be governed by the provisions of the Condominium Documents and the provisions of this Agreement. The Unit may only be occupied and used in accordance with the Condominium Documents and for no other purpose.
- C.8 The Vendor covenants to proceed with all due diligence and dispatch to register the Creating Documents. If the Vendor for any reason whatsoever is unable to register the Creating Documents and therefore is unable to deliver a registrable Transfer/Deed to the Purchaser within twenty-four (24) months after the Occupancy Date, the Purchaser or Vendor shall have the right after such twenty-four (24) month period to give sixty (60) days written notice to the other, of an intention to terminate the Occupancy Licence and this Agreement. If the Vendor and Purchaser consent to termination, the Purchaser shall give up vacant possession and pay the Occupancy Fee to such date, after which this Agreement and Occupancy Licence shall be terminated and all moneys paid to the Vendor on account of the Purchase Price shall be returned to the Purchaser together with interest required by the Act, subject however, to any repair and redecorating expenses of the Vendor necessary to restore the Unit to its original state of occupancy, reasonable wear and tear excepted. The Purchaser and Vendor each agree to provide a release of this Agreement in the Vendor's standard form. If the Vendor and Purchaser do not consent to termination, the provisions of subsection 79(3) of the Act may be invoked by the Vendor.
- C.9 The Vendor and the Purchaser covenant and agree, notwithstanding the taking of possession, that all terms hereunder continue to be binding upon them and that the Vendor may enforce the provisions of the Occupancy Licence separate and apart from the purchase and sale provisions of this Agreement.

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- C.10 The Purchaser acknowledges that the Vendor holds a fire insurance policy on the Condominium including all aspects of a standard unit only and not on any improvements or betterments made by or on behalf of the Purchaser. It is the responsibility of the Purchaser, after the Occupancy Date to insure the improvements or betterments to the Unit and to replace and/or repair same if they are removed, injured or destroyed. The Vendor is not liable for the Purchaser's loss occasioned by fire, theft or other casualty, unless caused by the Vendor's willful conduct.
- C.11 The Purchaser agrees to indemnify the Vendor for all losses, costs and expenses incurred as a result of the Purchaser's neglect, damage or use of the Unit or the Condominium, or by reason of injury to any person or property in or upon the Unit or the Condominium resulting from the negligence of the Purchaser, members of his immediate family, servants, agents, invitees, tenants, contractors and licensees. The Purchaser agrees that should the Vendor elect to repair or redecorate all or any part of the Unit or the Condominium as a result of the Purchaser's neglect, damage or use of the Unit or Condominium, he will immediately reimburse the Vendor for the cost of doing same, the determination of need for such repairs or redecoration shall be at the discretion of the Vendor, and such costs may be added to the Purchase Price.
- C.12 In accordance with subsections 80(6)(d) and (e) of the Act, subject to strict compliance by the Purchaser with the requirements of occupancy set forth in this Agreement, the Purchaser shall not have the right to assign, sublet or in any other manner dispose of the Occupancy Licence during Interim Occupancy without the prior written consent of the Vendor which consent may be arbitrarily withheld. The Purchaser acknowledges that an administrative fee will be payable to the Vendor each time the Purchaser wishes to assign, sublet or dispose of the Occupancy License during Interim Occupancy.
- C.13 The provisions set forth in this Agreement, unless otherwise expressly modified by the terms of the Occupancy Licence, shall be deemed to form an integral part of the Occupancy Licence. In the event the Vendor elects to terminate the Occupancy Licence pursuant to this Agreement following substantial damage to the Unit and/or the Condominium, the Occupancy Licence shall terminate forthwith upon notice from the Vendor to the Purchaser. If the Unit and/or the Condominium can be repaired within a reasonable time following damages as determined by the Vendor (but not, in any event, to exceed one hundred and eighty (180) days) and the Unit is, during such period of repairs uninhabitable, the Vendor shall proceed to carry out the necessary repairs to the Unit and/or the Condominium with all due dispatch and the Occupancy Fee shall abate during the period when the Unit remains uninhabitable; otherwise, the Purchaser shall vacate the Unit and deliver up vacant possession to the Vendor and all moneys, to the extent provided for in paragraph 20 hereof (excluding the Occupancy Fee paid to the Vendor) shall be returned to the Purchaser. It is understood and agreed that the proceeds of all insurance policies held by the Vendor are for the benefit of the Vendor alone.

SCHEDULE "D" TO AGREEMENT OF PURCHASE AND SALE

WARNING CLAUSES

- (a) The Purchaser is hereby advised that the Vendor's builder's risk and/or comprehensive liability insurance (effective prior to the registration of the Condominium), and the Condominium's master insurance policy (effective from and after the registration of the Condominium) will only cover the common elements and the standard unit and will not cover any betterments or improvements made to the standard unit, nor any furnishings or personal belongings of the Purchaser or other residents of the Unit, and accordingly the Purchaser should arrange for his or her own insurance coverage with respect to same, effective from and after the Occupancy Date, all at the Purchaser's sole cost and expense.
- (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 the Occupancy Date, from time to time, in order to enable the Vendor to correct outstanding deficiencies or incomplete work for which the Vendor is responsible, and to enable the Condominium to inspect the condition or state of repair of the Unit and undertake or complete any requisite repairs thereto (which the owner of the Unit has failed to do) in accordance with the Act.
- (c) The Vendor shall have the right to substitute any level in the Condominium with an alternative floor plate containing a modified design of units and/or number of units on the level. In the event that such modification becomes necessary, there shall be a reallocation of each owner's proportionate percentage and the Budget shall be modified accordingly. The Purchaser acknowledges that none of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Vendor to the Purchaser in connection with this transaction.
- (d) The Purchaser acknowledges being advised of the following notices:
- (i) Despite the best efforts of the Toronto District School Board, sufficient accommodation may not be locally available for all students anticipated from the development area and that students may be accommodated in facilities outside the area, and further, the students may later be transferred.
- (ii) Purchasers agree for the purpose of transportation to school if bussing is provided by the Public District School Board in accordance with the Board's policy, that students will not be bussed from home to school, but will meet the bus at designated locations in or outside the area"
- (e) The Vendor reserves the right to increase or decrease the final number of residential, parking, and/or other ancillary units intended to be created within the Condominium, as well as the right to alter the design, style, size and/or configuration of the residential units ultimately comprised within the Condominium which have not yet been sold by the Vendor to any unit purchaser(s), all in the Vendor's sole discretion, and the Purchaser expressly acknowledges and agrees to the foregoing, provided that the final budget for the first year following registration of the Condominium is prepared in such a manner so that any such variance in the residential/parking and/or other ancillary unit count will not affect, in any material or substantial way, the percentages of common expenses and common interests allocated and attributable to the residential, parking and/or locker units sold by the Vendor to the Purchaser. Without limiting the generality of the foregoing, the Purchaser further acknowledges and agrees that one or more residential units or portions thereof situate adjacent to one another may be combined or amalgamated prior to the registration of the Condominium, in which case the common expenses and common interests attributable to such proposed former units will be incorporated into one figure or percentage in respect of the final combined unit, and the overall residential unit count of the Condominium will be varied and adjusted accordingly. None of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Vendor to the Purchaser in connection with this transaction.
- (f) Various commercial businesses are located within the vicinity of this residential development. Occasional off-site impacts, including odour, emissions and noise from these businesses may be expected.
- (g) Purchasers are advised that the Vendor's marketing material and site drawings and renderings ("**Marketing Material**") which they may have reviewed prior to the execution of this Agreement remains conceptual and that final building plans are subject to the final review and approval of any applicable governmental authority and the Vendor's design consultants and engineers, and accordingly such Marketing Material does not form part of this Agreement or the Vendor's obligations hereunder.
- (h) The Purchaser acknowledges and agrees that the Vendor reserves the right to add or relocate certain mechanical equipment within the Unit, including but not limited to, a heat pump system and ancillary equipment, to be located and placed along either the interior of an outside wall or an interior demising wall, in accordance with engineering and/or architectural requirements.
- (i) The Purchaser acknowledges that it is anticipated by the Vendor that in connection with the Vendor's application to the appropriate governmental authorities for draft plan of condominium approval certain requirements may be imposed upon the Vendor by various governmental authorities. These requirements (the "**Requirements**") usually relate to warning provisions to be given to Purchasers in connection with environmental or other concerns (such as warnings relating to noise levels, the proximity of the Condominium to major street, garbage storage and pickup, school transportation, and similar matters). Accordingly, the Purchaser covenants and agrees that (1) on either the Occupancy Date or the Title Transfer

Date, the Purchaser shall execute any and all documents required by the Vendor acknowledging, inter alia, that the Purchaser is aware of the Requirements, and (2) if the Vendor is required to incorporate the Requirements into the final Condominium Documents the Purchaser shall accept the same, without in any way affecting this transaction.

- (j) It is further acknowledged that one or more of the Development Agreements may require the Vendor to provide the Purchaser with certain notices, including without limitation, notices regarding such matters as land use, the maintenance of retaining walls, landscaping features and/or fencing, noise abatement features, garbage storage and pick-up, school transportation, and noise/vibration levels from adjacent roadways and/or nearby railway lines. The Purchaser agrees to be bound by the contents of any such notice(s), whether given to the Purchaser at the time that this Agreement has been entered into, or at any time thereafter up to the Title Transfer Date, and the Purchaser further covenants and agrees to execute, forthwith upon the Vendor's request, an express acknowledgment confirming the Purchaser's receipt of such notice(s) in accordance with (and in full compliance of) such provisions of the Development Agreement(s), if and when required to do so by the Vendor.
- (k) The Purchaser acknowledges and agrees that the Vendor (and any of its authorized agents, representatives and/or contractors), as well as one or more authorized representatives of the Condominium, shall be permitted to enter the Unit after the Occupancy Date, from time to time, in order to enable the Vendor to correct outstanding deficiencies or incomplete work for which the Vendor is responsible, and to enable the Condominium to inspect the condition or state of repair of the Unit and undertake or complete any requisite repairs thereto (which the owner of the Unit has failed to do) in accordance with the Act.

SCHEDULE "E" TO AGREEMENT OF PURCHASE AND SALE

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

1. A Disclosure Statement dated December 11, 2015 and accompanying documents in accordance with Section 72 of the Act.
2. A copy of the Agreement of Purchase and Sale (to which this acknowledgment is attached as a Schedule) executed by the Vendor and the Purchaser.

The Purchaser hereby acknowledges that receipt of the Disclosure Statement and accompanying documents referred to in paragraph 1 above may have been in an electronic format and that such delivery satisfies the Vendor's obligation to deliver a Disclosure Statement under the Act.

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

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

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

DATED at Toronto, this 8th day of Dec, 2016

WITNESS:

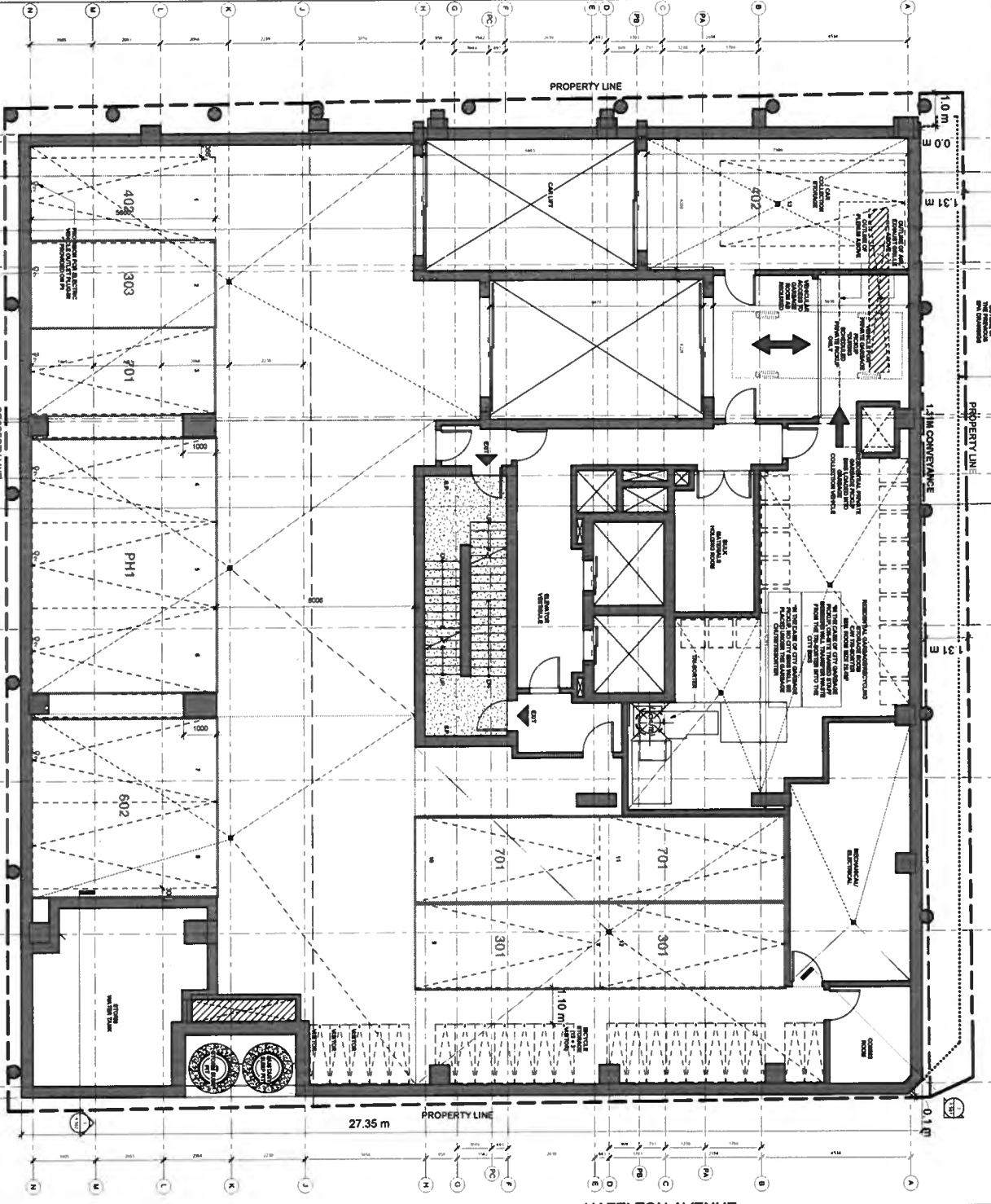
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[Handwritten signature]
Purchaser

Purchaser

LANDS TO BE CONVEYED TO THE CITY.
FREE AND CLEAR OF ALL ENCUMBRANCES
P.L.N. NO EXPENSE TO THE CITY.



DAVENPORT ROAD

HAZELTON AVENUE

SCHEDULE 'F'

LINE/TYPE LEGEND

- PROPERTY LINE
- OUTLINE OF PREVIOUS SPA
- SUBMISSION NOVEMBER 24, 2015
- LINE OF WALL ABOVE

FLOOR PLAN LEVEL P1

GENERAL NOTES:

- 1 TYPICAL PARKING STALL, 7.8m x 5.8m
- 2 BUILDING DESIGNERS TO HAVE THE FOLLOWING MINIMUM SOUNDING PERFORMANCE
- 3 WALL AND FLOORS INCLUDING TERRACE, RECESSED
- 4 WINDOW UNITS INCLUDING GLASS AND FRAME, MINIMUM 24" CENTER TO
- 5 CENTER BETWEEN UNITS INCLUDING UNITS IN AND FIRST FLOOR LEVEL 1/100
- 6 REFER TO EXISTING MECHANICAL REPORT DRAWING BY ANDRE LUDWIG

AUDAX
architecture + design

1200 WEST 10TH AVENUE
SUITE 200
VANCOUVER, BC V6H 2E6
TEL: 604-681-1111
WWW.AUDAXARCHITECTURE.COM

DRAWING TITLE: FLOOR PLAN LEVEL P1

30	PROPOSED SET	2015.10.29
29	REVISION: REDESIGNED FOR SPA	2015.10.11
28	REVISION: FOR SPA COMMENTS	2015.10.27
27	REVISION: REDESIGNED FOR SPA	2015.10.24
26	REVISION: REDESIGNED FOR SPA	2015.10.24
25	REVISION: REDESIGNED FOR SPA	2015.10.21
24	REVISION: REDESIGNED FOR SPA	2015.10.18
23	REVISION: REDESIGNED FOR SPA	2015.10.07
22	COORDINATION	2015.10.01
21	REVISION: CONSULT FOR	2015.10.18
20	REVISION: MARKING SPA 211/1	2015.10.18
19	COORDINATION	2015.11.12
18	REVISION: REDESIGNED FOR SPA	2015.11.12
17	REVISION: FOR SPA SUBMISSION	2015.10.29
16	REVISION: FOR SPA SUBMISSION	2015.10.19
15	REVISION: FOR SPA SUBMISSION	2015.10.19
14	REVISION: FOR SPA SUBMISSION	2015.10.09
13	DRAFT REVIEW FOR REVIEW	2015.10.21
12	FOR SPA COORDINATION	2015.10.15
11	REVISION: FOR COORDINATION	2015.10.01
10	REVISION: FOR COORDINATION	2015.10.08
9	REVISION: FOR COORDINATION	2015.10.11
8	REVISION	2015.10.11
7	REVISION	2015.10.08
6	PRELIMINARY CITY MEETING	2015.10.27
5	REVISION	2015.10.13
4	REVISION: REDESIGNED FOR MEETING	2015.10.30
3	REVISION: REDESIGNED FOR MEETING	2015.10.22
2	REVISION: REDESIGNED FOR MEETING	2015.10.16
1	REVISION: REDESIGNED FOR	2015.10.05
NO	REVISION: REDESIGNED FOR DATE	

PRODUCT TITLE: 128 AND 128 HAZELTON AVENUE, AND 201, 203, AND 205 DAVENPORT ROAD

PROJECT OWNER: As indicated

SCALE: As indicated

DRAWN BY: DB

CHECKED BY: DB

DATE: 11/20/15

A 203

LANDS TO BE CONVEYED TO THE CITY
FREE AND CLEAR OF ALL ENCUMBRANCES
& AT NO EXPENSE TO THE CITY

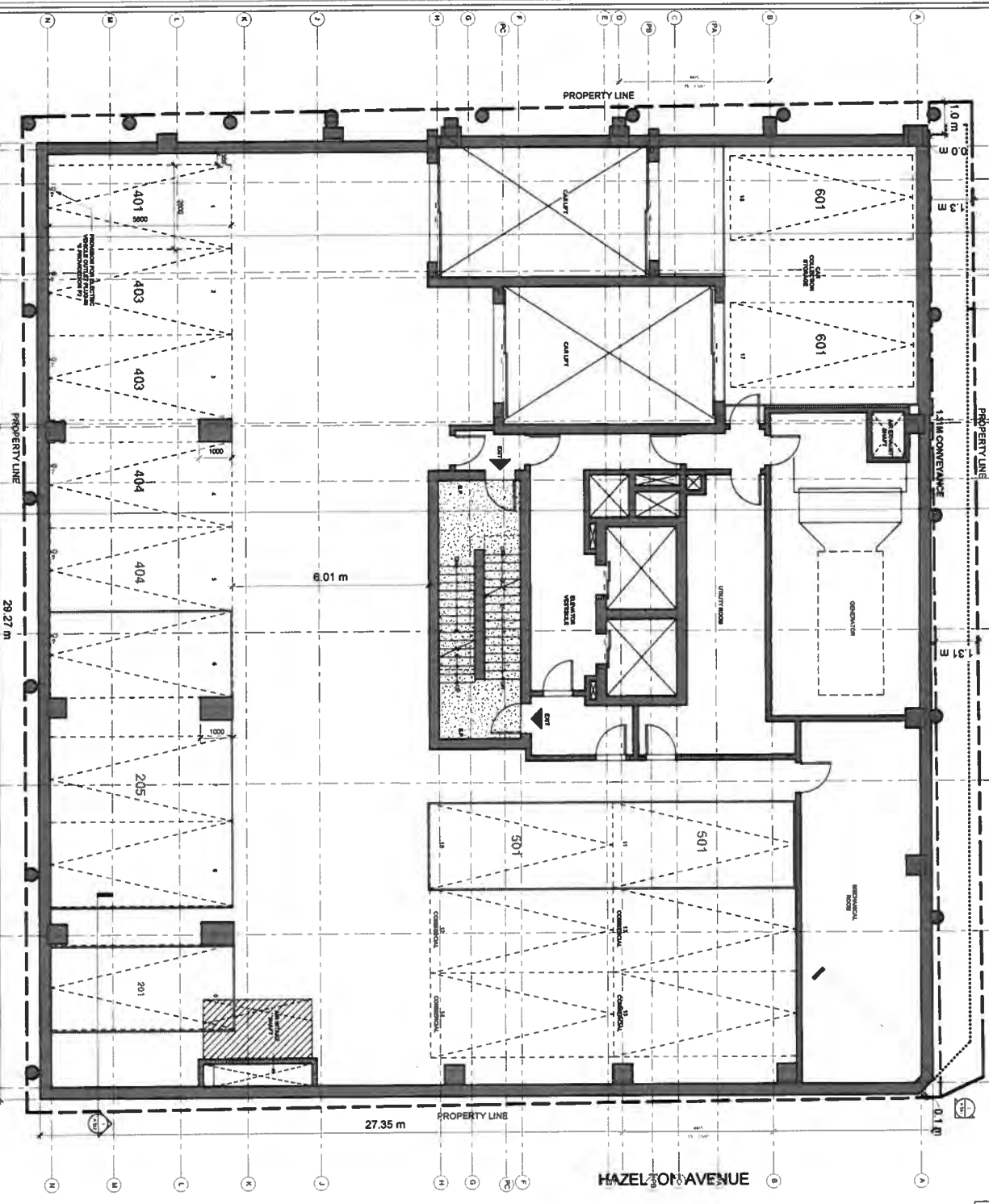
DAVENPORT ROAD

HAZELTON AVENUE

SCHEDULE 'P'

LINE-TYPE LEGEND

- PROPERTY LINE
- OUTLINE OF PREVIOUS SPA
- SUBMISSION NOVEMBER 24, 2015
- LINE OF WALL ABOVE



1 FLOOR PLAN LEVEL P2

GENERAL NOTES:

- 1 TYPICAL PARADE WALL, 230mm x 50mm
- BUILDING ENVELOPE TO HAVE THE FOLLOWING MINIMUM ENERGY PERFORMANCE
- WALLS AND CEILING TO HAVE U-VALUE OF 0.18 W/M²K
- FLOOR TO HAVE U-VALUE OF 0.18 W/M²K
- GLAZING TO HAVE U-VALUE OF 1.0 W/M²K
- GLAZING TO BE ENERGY MODELING REPORT QUALITY BY ARIANE LOCALIA

AUDAX
architecture + design

1255 WEST 10TH AVENUE
VANCOUVER, BC V6H 2G6
TEL: 604-275-1111
WWW.AUDAXARCHITECTURE.COM

NO	REVISIONS SET	DATE
20	REVISED SUBMITTED FOR SPA	2015-10-23
21	REVISED SUBMITTED FOR SPA	2015-10-27
22	REVISED SUBMITTED FOR SPA	2015-10-27
23	REVISED SUBMITTED FOR SPA	2015-10-27
24	REVISED SUBMITTED FOR SPA	2015-10-27
25	REVISED SUBMITTED FOR SPA	2015-10-27
26	REVISED SUBMITTED FOR SPA	2015-10-27
27	REVISED SUBMITTED FOR SPA	2015-10-27
28	REVISED SUBMITTED FOR SPA	2015-10-27
29	REVISED SUBMITTED FOR SPA	2015-10-27
30	REVISED SUBMITTED FOR SPA	2015-10-27
31	REVISED SUBMITTED FOR SPA	2015-10-27
32	REVISED SUBMITTED FOR SPA	2015-10-27
33	REVISED SUBMITTED FOR SPA	2015-10-27
34	REVISED SUBMITTED FOR SPA	2015-10-27
35	REVISED SUBMITTED FOR SPA	2015-10-27
36	REVISED SUBMITTED FOR SPA	2015-10-27
37	REVISED SUBMITTED FOR SPA	2015-10-27
38	REVISED SUBMITTED FOR SPA	2015-10-27
39	REVISED SUBMITTED FOR SPA	2015-10-27
40	REVISED SUBMITTED FOR SPA	2015-10-27

DRAWING TITLE: FLOOR PLAN LEVEL P2

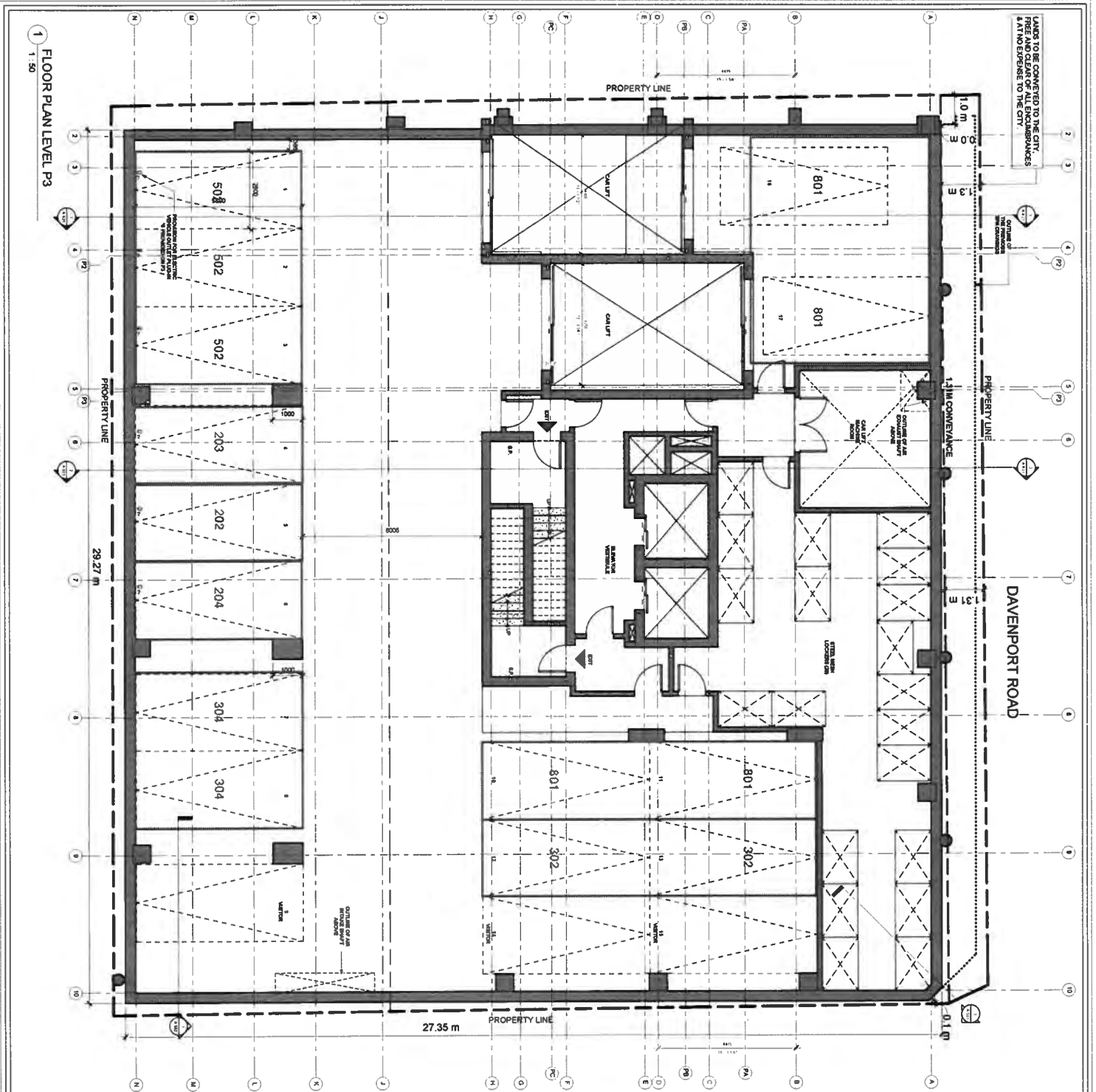
NO	REVISIONS SET	DATE
1	REVISED SUBMITTED FOR SPA	2015-10-23
2	REVISED SUBMITTED FOR SPA	2015-10-27
3	REVISED SUBMITTED FOR SPA	2015-10-27
4	REVISED SUBMITTED FOR SPA	2015-10-27
5	REVISED SUBMITTED FOR SPA	2015-10-27
6	REVISED SUBMITTED FOR SPA	2015-10-27
7	REVISED SUBMITTED FOR SPA	2015-10-27
8	REVISED SUBMITTED FOR SPA	2015-10-27
9	REVISED SUBMITTED FOR SPA	2015-10-27
10	REVISED SUBMITTED FOR SPA	2015-10-27
11	REVISED SUBMITTED FOR SPA	2015-10-27
12	REVISED SUBMITTED FOR SPA	2015-10-27
13	REVISED SUBMITTED FOR SPA	2015-10-27
14	REVISED SUBMITTED FOR SPA	2015-10-27
15	REVISED SUBMITTED FOR SPA	2015-10-27
16	REVISED SUBMITTED FOR SPA	2015-10-27
17	REVISED SUBMITTED FOR SPA	2015-10-27
18	REVISED SUBMITTED FOR SPA	2015-10-27
19	REVISED SUBMITTED FOR SPA	2015-10-27
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21	REVISED SUBMITTED FOR SPA	2015-10-27
22	REVISED SUBMITTED FOR SPA	2015-10-27
23	REVISED SUBMITTED FOR SPA	2015-10-27
24	REVISED SUBMITTED FOR SPA	2015-10-27
25	REVISED SUBMITTED FOR SPA	2015-10-27
26	REVISED SUBMITTED FOR SPA	2015-10-27
27	REVISED SUBMITTED FOR SPA	2015-10-27
28	REVISED SUBMITTED FOR SPA	2015-10-27
29	REVISED SUBMITTED FOR SPA	2015-10-27
30	REVISED SUBMITTED FOR SPA	2015-10-27

PROJECT TITLE: 128 AND 128 HAZELTON AVENUE AND 201, 203, AND 205 DAVENPORT ROAD

SCALE: As Indicated

DATE: 2015-10-27

PROJECT NO: A 202



1 FLOOR PLAN LEVEL P3
1:50

LINE TYPE LEGEND

- PROPERTY LINE
- OUTLINE OF PERVIOUS SPA SUBMISSION NOVEMBER 24, 2015
- LINE OF WALL ABOVE

SCHEDULE 'F'

HAZELTON AVENUE

DAVENPORT ROAD

GENERAL NOTES:

- TYPICAL PARADOX STYLL, 2 Srs x 5 Srs
- BUILDING ENVELOPE TO HAVE THE FOLLOWING MINIMUM ENERGY PERFORMANCE
- WALL R09 EFFICIENCY INCLUDING INTERNAL WINDOW
- ROOF R10 EFFICIENCY INCLUDING INTERNAL WINDOW
- PROPERTY LINES INCLUDING GABLES AND FINISH WINDOW LINE IN CENTER OF CURVE BETWEEN PARADOX LOT LINES P1 AND P101 FLOOR LEVEL, F1 R09
- REFER TO PREVIOUS ARCHITECTURE REPORT SUBMITTED BY ARCHITECT (REDACTED)

PROGRESS LIST

NO	DESCRIPTION	DATE
20	REVISED SUBMITTED FOR SPA	2014-10-25
21	REVISED SUBMITTED FOR SPA	2014-11-11
22	REVISED FOR SPA COMMENTS	2014-08-27
23	REVISED FOR SPA COMMENTS	2014-08-28
24	REVISED FOR SPA COMMENTS	2014-08-28
25	REVISED FOR SPA COMMENTS	2014-08-28
26	REVISED FOR SPA COMMENTS	2014-08-28
27	REVISED FOR SPA COMMENTS	2014-08-28
28	REVISED FOR SPA COMMENTS	2014-08-28
29	REVISED FOR SPA COMMENTS	2014-08-28
30	REVISED FOR SPA COMMENTS	2014-08-28
31	REVISED FOR SPA COMMENTS	2014-08-28
32	REVISED FOR SPA COMMENTS	2014-08-28
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40	REVISED FOR SPA COMMENTS	2014-08-28
41	REVISED FOR SPA COMMENTS	2014-08-28
42	REVISED FOR SPA COMMENTS	2014-08-28
43	REVISED FOR SPA COMMENTS	2014-08-28
44	REVISED FOR SPA COMMENTS	2014-08-28
45	REVISED FOR SPA COMMENTS	2014-08-28
46	REVISED FOR SPA COMMENTS	2014-08-28
47	REVISED FOR SPA COMMENTS	2014-08-28
48	REVISED FOR SPA COMMENTS	2014-08-28
49	REVISED FOR SPA COMMENTS	2014-08-28
50	REVISED FOR SPA COMMENTS	2014-08-28

FLOOR PLAN LEVEL P3

PROJECT TITLE
128 AND 128 HAZELTON AVENUE AND 201, 203, AND 205 DAVENPORT ROAD

SCALE: As Indicated

DATE: 15/05/2014

PROJECT NO.: A 201

AUDAX
architectural + design

128 HAZELTON AVENUE
VANCOUVER, BC V6Z 2K6
TEL: 604.681.1111
WWW.AUDAXARCHITECTURE.COM



PROTECTING ONTARIO'S NEW HOME BUYERS

Condominium Form (Tentative Occupancy Date)

126 and 128 Hazelton Avenue

Property _____

Statement of Critical Dates Delayed Occupancy Warranty

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

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

VENDOR Mizrahi (128 Hazelton) Inc. Full Name(s)
PURCHASER Constantine Enterprises Inc. Full Name(s)

1. Critical Dates

The First Tentative Occupancy Date, which is the date that the Vendor anticipates the home will be completed and ready to move in, is: the 31st day of December, 2018.

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

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

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

the ___ day of ___, 20__ Final Tentative Occupancy Date

or

the ___ day of ___, 20__ Firm Occupancy Date

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

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

The Outside Occupancy Date, which is the latest date by which the Vendor agrees to provide Occupancy, is:

30 November, 2020 the 31st day of December, 2019.

2. Notice Period for an Occupancy Delay

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

Notice of a delay beyond the First Tentative Occupancy Date must be given no later than:

(i.e., at least 90 days before the First Tentative Occupancy Date), or else the First Tentative Occupancy Date automatically becomes the Firm Occupancy Date.

the 2nd day of October, 2018.

3. Purchaser's Termination Period

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

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

December the 30th day of January, 2020.

Note: Any time a Critical Date is set or changed as permitted in the Addendum, other Critical Dates may change as well. At any given time the parties must refer to: the most recent revised Statement of Critical Dates; or agreement or written notice that sets a Critical Date, and calculate revised Critical Dates using the formulas contained in the Addendum. Critical Dates can also change if there are unavoidable delays (see section 5 of the Addendum).

Acknowledged this 2 day of JUNE 2020

VENDOR: [Signature]

PURCHASER: [Signature]

Addendum to Agreement of Purchase and Sale
Delayed Occupancy Warranty

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

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

The Vendor shall complete all blanks set out below.

VENDOR Mizrahi (128 Hazelton) Inc.

Full Name(s) 44647	126 Hazelton Avenue
Tarion Registration Number 416-922-4200	Address Toronto Ontario M5R 2E5
Phone 1-866-300-0219	City Province Postal Code
Fax	Reception@MizrahiDevelopments.ca Email*

PURCHASER Constantine Enterprises Inc.

Full Name(s)	1235 Bay Street, 7 th Floor, TOR, ON M5R 3K4
Address	City Province Postal Code
Phone 416-266-0000	
Fax	Robert@Hiscox.org Email*

PROPERTY DESCRIPTION

126 and 128 Hazelton Avenue
Municipal Address Toronto Ontario
City Province Postal Code
Part of Lots 1 and 2, Registered Plan 687-E and Part of Block A, Registered Plan 411, York, City of Toronto
Short Legal Description

INFORMATION REGARDING THE PROPERTY

The Vendor confirms that:

- (a) The Vendor has obtained Formal Zoning Approval for the Building. Yes No
 If no, the Vendor shall give written notice to the Purchaser within 10 days after the date that Formal Zoning Approval for the Building is obtained.
- (b) Commencement of Construction: has occurred; or is expected to occur by the 1st day of December, 2016.

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

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

SETTING AND CHANGING CRITICAL DATES
1. Setting Tentative Occupancy Dates and the Firm Occupancy Date

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

2. Changing the Firm Occupancy Date – Three Ways

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

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

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

4. Changing Critical Dates – By Mutual Agreement

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

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

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

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

5. Extending Dates – Due to Unavoidable Delay

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

EARLY TERMINATION CONDITIONS

6. Early Termination Conditions

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

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

Condition #1 (if applicable)

Description of the Early Termination Condition:

SEE APPENDIX

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

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

Condition #2 (if applicable)

Description of the Early Termination Condition:

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

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

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

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

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

MAKING A COMPENSATION CLAIM

7. Delayed Occupancy Compensation

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

8. Adjustments to Purchase Price

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

MISCELLANEOUS

9. Ontario Building Code – Conditions of Occupancy

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

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

10. Termination of the Purchase Agreement

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

11. Refund of Monies Paid on Termination

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

12. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Addendum Prevails

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

14. Time Periods, and How Notice Must Be Sent

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

Business Days prior to the commencement of the postal stoppage or interruption must be re-sent by another means in order to be effective. For purposes of this section 14, Business Day includes Remembrance Day, if it falls on a day other than Saturday or Sunday, and Easter Monday.

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

15. Disputes Regarding Termination

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

For more information please visit www.tarion.com

SCHEDULE A
Types of Permitted Early Termination Conditions
1. The Vendor of a condominium home is permitted to make the Purchase Agreement conditional as follows:

(a) upon receipt of Approval from an Approving Authority for:

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

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

(b) upon:

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

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

2. The following definitions apply in this Schedule:

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

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

3. Each condition must:

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

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

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

SCHEDULE B**Adjustments to Purchase Price or Balance Due on Closing****PART I Stipulated Amounts/Adjustments**

These are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing, the dollar value of which is stipulated in the Purchase Agreement and set out below.

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

1.

2. SEE ATTACHED

3.

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

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

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

1.

SEE ATTACHED

2.

3.

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

The following Early Termination Conditions shall form an integral part of the Agreement of Purchase and Sale and Tarion Addendum, as contemplated therein:

Early Termination Condition No. 1:

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

The date by which this Condition is to be satisfied is the 30th day of December, 2016.

**SCHEDULE B TO ADDENDUM
ADJUSTMENT TO PURCHASE PRICE OR BALANCE DUE ON CLOSING**

PART I – Stipulated Amounts/Adjustments

These are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing, the dollar value of which is stipulated in the Purchase Agreement and set out below.

	DESCRIPTION	SECTION	AMOUNT
1	Cheque administration fee (subsection 81(6) of the Condominium Act)	6(d)(vii)	\$50.00 per cheque, plus HST
2	Certain Amendments	6(e)	\$350.00, plus HST
3	Unaccepted cheque	6(j)	\$250.000, per cheque

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

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

	DESCRIPTION	SECTION
1	Utility costs	6(a)(i)
2	Occupancy Fees and other amounts	6(a)(ii); 23(b); Schedule C to Purchase Agreement
3	Realty taxes	6(b)(i)
	Common expense contributions	6(b)(ii)
4	Any new taxes or increases to existing taxes	6(d)(i)
5	Upgrades and/or extras and/or charges	6(d)(ii)
6	Increase of Levies or new Levies	6(d)(iii)
7	TWC enrolment fee	6(d)(iv)
8	Utility meters, connection, installation, energization, etc., charges	6(d)(v)
9	Law Society of Upper Canada charge imposed on Vendor or its solicitors	6(d)(vi)
10	Any other additional or further adjustments agreed to in writing between the Vendor and Purchaser subsequent to the execution of this Agreement	6(d)(vii)
11	Leased hot water tank	6(f)
12	Utility Supplier(s) deposit(s)	6(g)
13	HST Rebate where Purchaser does not qualify for the Rebate	6(h)
14	HST on Adjustments	6(i)
15	Removing unauthorized title registrations	16
16	Interest and liquidated damages	25(b)
17	Use of Vendor's solicitor's computer facilities	30(c)

Appendix “I”

AMENDING AGREEMENT – SECOND FLOOR UNITS

THIS AMENDING AGREEMENT (“**AGREEMENT**”) IS MADE this 7th day of August, 2024

CONSTANTINE ENTERPRISES INC.
(hereinafter referred to as the “**Purchaser**”)

–AND –

KSV RESTRUCTURING INC. (“KSV”)
solely in its capacity as Receiver and Manager of
the property, assets and undertaking of
MIZRAHI (128 Hazelton) INC.
and not in its personal capacity
(hereinafter referred to as the “**Vendor**”)

WHEREAS pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated June 4, 2024, in the proceeding bearing Court file number CV-24-00715321-00CL, KSV Restructuring Inc. was appointed as receiver and manager, without security, of all of the assets, undertakings and properties of both Mizrahi (128 Hazelton) Inc. (“**Hazelton**”), including all proceeds thereof;

AND WHEREAS the Purchaser and Hazelton entered into (a) an agreement of purchase and sale dated December 8, 2016 in respect of the purchase and sale of Unit 201 at 128 Hazelton, Toronto (as amended, the “**201 APS**”); and (b) an agreement of purchase and sale in respect of the purchase and sale of Unit 204 at 128 Hazelton, Toronto (as amended, the “**204 APS**”, and together with the 201 APS, the “**Purchase Agreements**”);

AND WHEREAS the Vendor and the Purchaser wish to amend the Purchase Agreements pursuant to the terms hereof;

The parties agree as follows:

- 1) The Purchase Agreements are hereby amended as follows:
 - a) Notwithstanding any provision of either Purchase Agreement including Schedule “B” thereto, the property being acquired by the Purchaser pursuant thereto (collectively, the “**Property**”) is being acquired only to the state of the finishes existing as of the date of this Agreement, and no additional work will be required to be performed by the Vendor in respect of the Property.
 - b) The Property is being purchased on an “as is, where is” basis.
 - c) No representation or warranty, either express or implied, has been or will be given by the Vendor as to the title to or the boundaries of the Property, the condition of the Property, the environmental condition of the Property, soil and subsoil conditions, the zoning and other laws, by-laws, regulations, rules or codes applicable to the Property, the size, quality, quantity, fitness for purpose and/or marketability of the Property, or any other matter or thing affecting or related to the Property or any part thereof or the transaction contemplated by the Purchase Agreements.

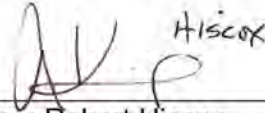
- d) The Purchaser has not relied upon any representation or warranty or upon any offering material or other information furnished to the Purchaser by the Vendor or the Vendor's agent or any other person or entity including, without limitation, any reports, studies or assessments provided to the Purchaser by or on behalf of the Vendor.
- e) "Title Transfer Date" shall be the date that is two (2) business days after the date on which the Court approves the closing of the transactions contemplated by the Purchase Agreements, or such other date as the Vendor and Purchaser may mutually agree.
- f) The address provided for the Vendor in the Purchase Agreements for the purpose of providing notice shall be deleted and replaced with the following:

KSV Restructuring Inc.
 220 Bay Street, 13th Floor, PO Box 20
 Toronto, ON M5J 2W4
 Attention: Bobby Kofman
 Email: bkofman@ksvadvisory.com

- 2) The Vendor is executing this Agreement solely in its capacity as Court-appointed receiver and manager of the property, assets and undertaking of , among other things, the Property and not in personal or corporate capacity and none of the Vendor, KSV Restructuring Inc. or any of their respective directors, officers, agents, servants or employees shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof.
- 3) This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 4) Time shall be of the essence of this Agreement, and the Purchase Agreements, and all terms of the Purchase Agreements shall continue in full force and effect.
- 5) This Agreement shall enure to the benefit of and be binding upon the parties hereto their respective successors and assigns.
- 6) The parties hereto agree that notice of acceptance and delivery of the within offer and all communications thereto may be made by email, or other electronic means addressed to the parties hereto or their solicitors or their agents. The parties hereto agree pdf or other electronic copies shall constitute original copies.
- 7) This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first written above.

CONSTANTINE ENTERPRISES INC.

Handwritten signature of Robert Hiscox in black ink, written over a horizontal line. The signature is stylized and includes the name 'Hiscox' written in a smaller font to the right of the main signature.

Name: Robert Hiscox

Title: President

I have the authority to bind the Corporation

KSV RESTRUCTURING INC.

solely in its capacity

as Receiver and Manager of

the property, assets and undertaking of

MIZRAHI (128 Hazelton) INC.

and not in its personal capacity

Handwritten signature of Robert Kofman in black ink, written over a horizontal line. The signature is stylized and includes the name 'Kofman' written in a smaller font to the right of the main signature.

Per: _____

Name: Robert Kofman

Title: President

I have the authority to bind the Corporation

AMENDMENT TO THE AGREEMENT OF PURCHASE AND SALE

BETWEEN: Mizrahi (128 Hazelton) Inc. (the "Vendor") and Constantine Enterprises Inc. (the "Purchaser") Unit 05, Level 2, Suite 205 (the "Unit")

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

DELETE

INSERT

- The Vendor and the Purchaser agree that the Purchaser has the right to assign the unit, for a fee of \$1500.00 + HST.

All parties agree that this offer, and any amendments and waivers hereto may be executed and accepted by telefax transmission, which for all purposes will be legally binding as if presented in original.

DATED at Toronto, this 8 day of Dec, 2016

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

SIGNED, SEALED AND DELIVERED in the presence of

[Handwritten signature]

[Handwritten signature: HISCOK] Purchaser [Handwritten signature: Constantine Enterprises Inc.] Purchaser

DATED at Toronto, this day of , 201 .

Mizrahi (128 Hazelton) Inc.

Per:

[Handwritten signature] c/s Authorized Signing Officer I have the authority to bind the Corporation.

128 HAZELTON
COMMERCIAL AGREEMENT

AGREEMENT OF PURCHASE AND SALE

The undersigned, CONSTANTINE ENTERPRISES INC. (collectively, the "Purchaser"), hereby agrees with MIZRAHI (128 HAZELTON) INC. (the "Vendor") to purchase Unit 05, Level 02, as outlined for identification purposes only on the sketch attached hereto as Schedule "A", being a (proposed) unit in the Condominium to be located at those lands municipally knows as 128 Hazelton Avenue, Toronto, Canada, (currently legally described as being Part of Lots 1 and 2 Registered Plan 687-E and Part of Block A Registered Plan 411 York, City of Toronto, 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 proposed Declaration (collectively, the "Unit"), together with **THREE (3) Parking Spaces and ONE (1) Locker** on the following terms and conditions:

1. The purchase price of the Unit (the "Purchase Price") is **TWO MILLION TWO HUNDRED THIRTY-EIGHT THOUSAND (\$2,238,000.00) DOLLARS** in lawful money of Canada, payable as follows:
 - (a) to Harris, Sheaffer, LLP, In Trust, (the "Vendor's Solicitor") in the following amounts at the following times, by cheque or bank draft, as deposits pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Occupancy Date:
 - (i) the sum of TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED (\$223,800.00) Dollars submitted with this Agreement;
 - (ii) the sum of TWO HUNDRED TWENTY THREE THOUSAND EIGHT HUNDRED (\$223,800.00) Dollars submitted with this Agreement and post-dated 365 days following the date of execution of this Agreement by the Purchaser;
 - (b) the sum of THREE HUNDRED THIRTY FIVE THOUSAND SEVEN HUNDRED (\$335,700.00) Dollars by certified cheque or bank draft on the Occupancy Date;
 - (c) the balance of the Purchase Price by certified cheque on the Unit Transfer Date, subject to the adjustments hereinafter set forth.
2.
 - (a) The Purchaser shall occupy the Unit on December 31, 2019 or such extended or accelerated date that the Unit is substantially completed by the Vendor in accordance with this Agreement (the "Occupancy Date");
 - (b) The transfer of title to the Unit shall be completed on the later of the Occupancy Date or a date established by the Vendor in accordance with Paragraph 14 hereof (the "Unit Transfer Date");
 - (c) The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is as follows:

Address: Constantine Enterprises Inc. 1235 Bay Street, 7th Floor, Toronto, Ontario M5R 3K4
 - (d) 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(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.
 - (e) The meaning of the following words are as follows:
 - (i) "Area of the Unit" means approximately 1,938 square feet, more or less;
 - (ii) "Business" means the operation of a Professional Office;
 - (iii) "Price per Square Foot" means ONE THOUSAND, Dollars (\$1,000.00) per square foot.

Paragraphs 3 through 50 and Schedules "A", "B", "C", "D" and "F" 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 Toronto, this 8 day of Dec, 2016


SIGNED, SEALED AND DELIVERED)
 In the presence of) 
) CONSTANTINE ENTERPRISES INC.
) ASO: Robert Hiscox

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

DATED at Toronto, this _____ day of _____, 20__

Vendor's Solicitors:
Harris, Sheaffer, LLP
Suite 610 - 4100 Yonge Street
Toronto, Ontario
M2P 2B5
Phone: 416-250-5800
Fax: 416-250-5300
Attn: **Jeffrey P. Silver**

MIZRAHI (128 HAZELTON) INC.

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

3. The meaning of words and phrases used in this Agreement and its Schedules shall have the meaning ascribed to them in the *Condominium Act, 1998*, S.O. 1998, C.19, the regulations thereunder and any amendments thereto (the "Act") and other terms used herein shall have ascribed to them the definitions in the Condominium Documents unless otherwise provided for as follows:

- (a) "Agreement" means this Agreement of Purchase and Sale including all Schedules attached hereto and made a part hereof;
- (b) "Condominium" means the condominium which will be registered against the Property pursuant to the provisions of the Act;
- (c) "Condominium Documents" means the Creating Documents, the by-laws and rules of the Condominium, the disclosure statement and budget statement together with all other documents and agreements which are entered into by the Vendor on behalf of the Condominium or by the Condominium directly prior to the turnover of the condominium, as may be amended from time to time;
- (d) "Corporation" shall mean the Standard Condominium Corporation created upon registration by the Vendor of the Creating Documents;
- (e) "Creating Documents" means the declaration and description which are intended to be registered against title to the Property and which will serve to create the Condominium, as may be amended from time to time;
- (f) "Interim Occupancy" shall mean the period of time from the Occupancy Date to the Unit Transfer Date;
- (g) "Occupancy Licence" shall mean the terms and conditions by which the Purchaser shall occupy the Unit during Interim Occupancy as set forth in Schedule "C" hereof;
- (h) "Occupancy Fee" shall mean the sum of money payable monthly in advance by the Purchaser to the Vendor and calculated in accordance with Schedule "C" hereof; and
- (i) "Property" shall mean the lands and premises upon which the Condominium is constructed or shall be constructed and legally described in the Disclosure Statement provided for the Condominium.

Vendor's Work

4. (a) It is understood and agreed by the parties hereto that the Unit shall be completed by the Vendor only to the state of those finishes more particularly described and listed in Schedule "B", as the case may be (hereinafter collectively referred to as the "Vendor's Work"), and the Vendor's Work (except as otherwise hereafter specifically provided to the contrary) shall be supplied and installed by or on behalf of the Vendor at its sole cost and expense. The Vendor hereby specifically reserves the right to select and determine all materials, colors, specifications and models with respect to the items comprising the Vendor's Work.
- (b) The Purchaser acknowledges that any extras, upgrades of materials, substitutions or variations of materials or specifications or other deviations from the Vendor's Work as set out in Schedule "B" ordered or selected by the Purchaser and agreed to by the Vendor shall be payable by the Purchaser in addition to the Purchase Price set out herein and shall be payable by the Purchaser in advance and prior to commencement of any work in relation thereto by the Vendor or its employees agents or subcontractors. In the event that the Purchaser does not pay for the extras, upgrades, substitutions or other deviations in full within ten (10) days after written request, the Vendor shall have the right, at its option, to cancel the order therefore and to proceed with construction of the Unit using standard materials and specifications only or in combination with such extras, upgrades, substitutions or other deviations as it may choose but still at the Purchaser's cost. The Purchaser acknowledges and agrees that the extras and upgrades are specialty and extraordinary items and accordingly, in the event of termination of this Agreement for any reason, the Purchaser shall not be entitled to reimbursement or refund of any monies paid to the Vendor in connection with such extras or upgrades.
 - (c) The Purchaser acknowledges that where the Unit comprises more than one unit on the Vendor's floor/condominium plan, then the Vendor's Work shall be supplied and installed by the Vendor as if the Unit comprises only one such space. The Purchaser further acknowledges and agrees that it shall be responsible for supplying, installing and completing all of the Purchaser's Work, and all other betterments or improvements to the Unit, in accordance with the drawings, plans and specifications prepared by qualified designers, architects and/or engineers engaged by or on behalf of the Purchaser, all at the Purchaser's sole cost and expense.
 - (d) Notwithstanding anything to the contrary contained in this Agreement, the Purchaser further acknowledges and agrees to the following:
 - (i) That any sprinkler modifications for the Unit which may be required by the Purchaser shall be arranged with the Vendor and only be completed by the Vendor's sprinkler contractor solely at the Purchaser's cost and expense.
 - (ii) That any underground plumbing work for the Unit required by the Purchaser shall be arranged with the Vendor and only be performed by the Vendor's contractor solely at the Purchaser's cost and expense.
 - (iii) That any electrical work required in any common electrical rooms for service to the Unit shall be arranged with the Vendor and only be performed by the Vendor's electrical contractor at the Purchaser's cost and expense.
 - (iv) That the Purchaser shall assume responsibility of all utility accounts for the Unit on the Occupancy Date and shall provide satisfactory written evidence to the Vendor of all utility account transfers to the Purchaser on or before the Occupancy Date.
 - (v) That the Purchaser shall be obligated and responsible for payment of all utility charges attributable to the Unit as of the Occupancy Date. Any charges from local utility companies or other suppliers as of the Occupancy Date are the direct responsibility and obligation of the Purchaser for payment and shall form part of the final closing adjustments, if applicable. All utility new account fees, meter charges; deposits etc. are the responsibility of the Purchaser and, if applicable shall form part of the final adjustments on closing.

Deposits

5. (a) The Vendor shall credit the Purchaser with interest at the prescribed rate on either the Occupancy Date or Unit Transfer Date at the Vendor's sole discretion on all money received by the Vendor on account of the Purchase Price from the date of deposit of the money received from time to time by the Declarant's solicitor or the trustee until the Occupancy Date. The Purchaser acknowledges and agrees that, for the purposes of subsection 81(6) of the Act, compliance with the requirement to provide written evidence, in the form prescribed by the Act, of payment of monies by or on behalf of the Purchaser on account of the Purchase Price of the Unit shall be deemed to have been sufficiently made by delivery of such written evidence to the address of the Purchaser noted in paragraph 2(c) of this Agreement. The Purchaser further acknowledges and agrees that any cheques provided to the Vendor on account of the Purchase Price will not be deposited and accordingly interest as prescribed by the Act will not accrue thereon, until after the expiry of the ten (10) day rescission period as provided for in Section 73 of the Act (or any extension thereof as may be agreed to in writing by the Vendor). The Purchaser represents and warrants that the Purchaser is not a non-resident of Canada within the meaning of the Income Tax Act of Canada. If the Purchaser is not a resident of Canada for the purposes of the Income Tax Act, Canada (the "ITA"), the Vendor shall be entitled to withhold and remit to Canada Customs and Revenue Agency the appropriate amount of interest payable to the Purchaser on account of the deposits paid hereunder, under the ITA.

- (b) All deposits paid by the Purchaser shall be held by the Declarant's Solicitor in a designated trust account, and shall be released only in accordance with the provisions of Section 81(7) of the Act and the regulations thereto, as amended. Without limiting the generality of the foregoing, and for greater clarity, it is understood and agreed that with respect to any deposit monies received from the Purchaser, the Declarant's Solicitor shall be entitled to withdraw such deposit monies from said designated trust account prior to the Unit Transfer Date if and only when the Vendor obtains one or more excess condominium deposit insurance policies (issued by any insurer as may be selected by the Vendor, authorized to provide excess condominium deposit insurance in Ontario) insuring the deposit monies so withdrawn (or intended to be withdrawn), and delivers the said excess condominium deposit insurance policies (duly executed by or on behalf of the insurer and the Vendor) to the Declarant's Solicitor holding the deposit monies for which said policies have been provided as security, in accordance with the provisions of Section 21 of O.Reg. 48/01.

Adjustments

6. (a) Commencing as of the Occupancy Date, the Purchaser shall be responsible shall be obligated to pay the following costs and/or charges in respect to the Unit:
- (i) All utility costs including electricity, gas and water (unless included as part of the common expenses); and
 - (ii) The Occupancy Fee owing by the Purchaser for Interim Occupancy prior to the Unit Transfer Date (if applicable).
- (b) 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:
- (i) Realty taxes (including local improvement charges pursuant to the *Local Improvement Charges Act*, if any) which may be estimated as if the Unit has been assessed as fully completed by the taxing authority for the calendar year in which the transaction is completed, notwithstanding the same may not have been levied or paid on the Unit Transfer Date. The Vendor shall be entitled in its sole discretion to collect from the Purchaser a reasonable estimate of the taxes as part of the Occupancy Fee and/or such further amounts on the Unit Transfer Date, provided all amounts so collected shall either be remitted to the relevant taxing authority on account of the Unit or held in trust by the Vendor pending receipt of final tax bills for the Unit, following which said realty taxes shall be readjusted in accordance with subsections 80(8) and (9) of the Act.
 - (ii) Common expense contributions attributable to the Unit and Parking Units, if applicable, with the Purchaser being obliged to provide the Vendor on or before the Unit Transfer Date with a series of post-dated cheques payable to the Corporation for the common expense contributions attributable to the Unit and Parking Units, for such period of time after the Unit Transfer Date as determined by the Vendor (but in no event for more than one year).
 - (iii) If, prior to the Occupancy Date or Unit Transfer Date, as determined by the Vendor, the actual Area of the Unit is shown by the Vendor's surveyor's or architect's certificate (which certificate shall be binding upon the parties) to be other than the Area of the Unit as set out in paragraph 2 (e) on the front page of this Agreement, the Purchase Price shall be either increased or decreased, as the case may be, at the Price per Square Foot based upon the difference between the Area of the Unit as set out in paragraph 2 (e) on the front page of this Agreement and the actual Area of the Unit shown in such certificate and the difference, if any, shall be adjusted on the Occupancy Date or Unit Transfer Date, as determined by the Vendor. Notwithstanding the boundaries of the Unit as established under the Condominium Documents, for the purpose of the calculation of the Area of the Unit, the floor area of the Unit shall be calculated to the outside face of exterior walls and the centre line of any demising wall dividing units or to the vertical plane dividing legally created units in the condominium description and shall include all interior partition walls and columns.
- (c) Interest on all money paid by the Purchaser on account of the Purchase Price, shall be adjusted and credited to the Purchaser in accordance with paragraph 5 of this Agreement.
- (d) The Purchaser shall, in addition to the Purchase Price, pay the following amounts to the Vendor on the Unit Transfer Date:
- (i) any other taxes imposed on the Unit by the federal, provincial, or municipal government;
 - (ii) the amount of any development charge(s) or levies and/or any sewer impost charges and/or any fees, levies (including parks and public art levies), charges or assessments in respect of or attributable to GO Transit or the Toronto Transit Commission, as well as levies, charges or assessments (notwithstanding that same may be paid prior to the year of the Title Transfer Date) assessed against or attributable to the Unit or, if applicable to the Residential Unit alone or assessed against the Property or any portion thereof, and attributable to the Unit or, if applicable the Residential Unit alone, by dividing the total amount of such charges and costs by the number of Residential Units in the Condominium and by charging the Purchaser in the statement of adjustments with that portion of the charges and costs pursuant to the Development Charges Act 1997, S.O. 1997, as amended from time to time, or any other relevant legislation or authority (collectively referred to as the "Development Charges"). If any Development Charges are assessed against the Property as a whole and not against the Unit or, if applicable the Residential Unit alone, then at the request of the Vendor, the Purchaser shall pay to the Vendor a proportionate reimbursement of such amounts equivalent to the proportionate common interest allocation attributable to the Unit in the Condominium;
 - (iii) the amount of any education development charge(s) or levies charges or assessments assessed against or attributable to the Unit or, if applicable to the Residential Unit alone or assessed against the Property or any portion thereof, and attributable to the Unit or, if applicable the Residential Unit alone, by dividing the total amount of such charges and costs by the number of Residential Units in the Condominium and by charging the Purchaser in the statement of adjustments with that portion of the charges and costs pursuant to the Education Act R.S.O 1990, as amended from time to time, or any other relevant legislation or authority (collectively referred to as the "Education Charges"). If any Education Charges are assessed against the Property as a whole and not against the Unit or, if applicable the Residential Unit alone, then at the request of the Vendor, the Purchaser shall pay to the Vendor a proportionate reimbursement of such amounts equivalent to the proportionate common interest allocation attributable to the Unit in the Condominium;
 - (iv) a sum of Three Hundred (\$300.00) Dollars as a contribution towards the cost of fees payable by the Vendor to its lenders including the cost of obtaining (partial) discharges of mortgages not intended to be assumed by the Purchaser;
 - (v) an amount equal to two (2) months of common expenses for the Property as a contribution towards the operation of the Corporation, which amount shall be paid directly to the Corporation on closing. Such amount shall be in addition to any common expenses otherwise payable to the Corporation;
 - (vi) The cost of water meter installations, water and sewer service connection charges and hydro and gas installation and connection or energization charges for the Unit and/or the Condominium, and where such costs or charges or any portion thereof are assessed against the Property and not the Unit separately, then the Purchaser's portion of such installation and/or connection or energization charges and costs shall be calculated by dividing the total amount of such charges and costs by the number of units in the Condominium and by charging the Purchaser in the statement of adjustments with that portion of the charges and costs. A letter from the Vendor's engineers certifying the said charges and costs shall be final and binding on the Purchaser.
 - (vii) The charge imposed upon the Vendor or its solicitors by the Law Society of Upper Canada upon registration of a Transfer/Deed of Land or Charge/Mortgage of Land or any other instrument.
 - (viii) A sum of Fifty (\$50.00) Dollars for each cheque tendered pursuant to paragraph 1(a) and 1(b) of this Agreement and for any cheques tendered for upgrades or changes representing a reasonable reimbursement to the Vendor of the costs incurred or to be incurred by the Vendor in fulfillment of the requirements of subsection 81(6) of the Act.

- (e) In the event that the Purchaser desires to increase the amount to be paid to the Vendor's solicitors on the Occupancy Date, or wishes to vary the manner in which the Purchaser has previously requested to take title to the Property, or wishes to add or change any unit(s) being acquired from the Vendor at any time after thirty (30) days prior to the Occupancy Date, then the Purchaser hereby covenants and agrees to pay to the Vendor's Solicitor's the legal fees and ancillary disbursements which may be incurred by the Vendor or charged by the Vendor's Solicitors in order to implement any of the foregoing changes so requested by the Purchaser (with the Vendor's Solicitors' legal fees for implementing any such changes to any of the interim closing and/or final closing documents so requested by the Purchaser and agreed to by the Vendor being \$250.00 plus HST), but without there being any obligation whatsoever on the part of the Vendor to approve of, or to implement, any of the foregoing changes so requested.
- (f) The Purchaser acknowledges that it may be required to enter into an agreement with the supplier of hydro and/or water and/or gas services to the Condominium (the "Utility Supplier") on or before the Unit Transfer Date. Furthermore, the Purchaser acknowledges that such agreement may require the Purchaser to deliver a security deposit to the Utility Supplier prior to the Unit Transfer Date and the Purchaser agrees to deliver such security deposit to the Vendor on the Closing Date or Unit Transfer Date, as determined by the Vendor. Furthermore and notwithstanding anything contained herein the Purchaser shall provide satisfactory evidence to the Vendor on or before the Occupancy Date that all applicable accounts for utility service to the Unit as required by the Vendor shall be set up and in place by the Purchaser with the respective Utility Supplier and the Purchaser shall indemnify the Vendor for all losses, costs and expenses incurred by the Vendor as a result of the Purchaser's neglect or failure to comply and adhere to the foregoing.
- (g) It is expressly understood and agreed by the parties hereto that the Purchase Price and the monthly occupancy fees payable by the Purchaser hereunder are exclusive of the applicable harmonized goods and services tax or single sales tax exigible with respect to this purchase and sale transaction (hereinafter and hereinafter referred to as the "HST"). The Purchaser shall also be solely responsible for any HST applicable to (or eligible in respect of) the forfeiture of all or any portion of the Purchaser's deposits paid hereunder as a result of the termination of this Agreement consequent upon the Purchaser's default. The Purchaser hereby warrants, covenants and agrees that the Purchaser is (or on the Unit Transfer Date will be) registered under the Excise Tax Act, and shall be solely responsible for paying and remitting any applicable HST exigible whatsoever or howsoever in connection with this transaction, on its own, pursuant to the Excise Tax Act. Moreover, the Purchaser covenants and agrees to provide the Vendor, forthwith upon demand, and in any event prior to the Unit Transfer Date, with evidence of the Purchaser's registration under the Excise Tax Act, which evidence shall be in a form acceptable to the Vendor in its sole and unfettered discretion, together with the undertaking of the Purchaser to self-assess and to indemnify the Vendor with respect to HST penalties in a form acceptable to the Vendor. If, prior to the Unit Transfer Date, the Purchaser has not provided the Vendor with such satisfactory evidence that the Purchaser is registered under the Excise Tax Act, then the Purchaser shall pay to the Vendor on the Unit Transfer Date the amount of any HST payable in this transaction, notwithstanding that same may not have been formally or finally levied and/or payable by the Unit Transfer Date. In the event that the Purchaser fails to pay and/or reimburse the Vendor with respect to such taxes (including without limitation, the Purchaser's failure to pay or remit to the Vendor on the Unit Transfer Date the HST exigible in connection with this transaction), and the Purchaser fails to provide satisfactory evidence to the Vendor that the Purchaser is registered under the Excise Tax Act, then in addition to any other rights or remedies available to the Vendor at law or in equity, the Vendor shall have the unilateral right to terminate this agreement by delivering a notice to that effect to the Purchaser at any time on or before the Unit Transfer Date, and all monies theretofore paid by the Purchaser to the Vendor shall be forfeited to the Vendor as its liquidated damages, and not as a penalty, without prejudice to the Vendor's pursuit of a claim in damages against the Purchaser as a result of the Purchaser's default.
- (h) Notwithstanding any other provision herein contained in this Agreement, the Purchaser further acknowledges and agrees that the Purchase Price does not include any HST exigible 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).
- (i) An administration fee of Three Hundred and Fifty (\$350.00) Dollars shall be charged to the Purchaser for any cheque delivered to the Vendor's Solicitor and not accepted by the Vendor's Solicitor's bank for any reason.

Title

7. The Vendor or its Solicitor shall notify the Purchaser or his/her Solicitor following registration of the Creating Documents so as to permit the Purchaser or his/her Solicitor to examine title to the Unit (the "Notification Date"). The Purchaser shall be allowed twenty (20) days from the Notification Date (the "Examination Period") to examine title to the Unit at the Purchaser's own expense and shall not call for the production of any surveys, title deeds, abstracts of title, grading certificates, occupancy permits or certificates, nor any other proof or evidence of the title or 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. Save as to any valid objections so made within the Examination Period, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Unit. The Purchaser acknowledges and agrees that the Vendor shall be entitled to respond to some or all of the requisitions submitted by or on behalf of the Purchaser through the use of a standard title memorandum or title advice statement prepared by the Vendor's Solicitors, and that same shall constitute a satisfactory manner of responding to the Purchaser's requisitions, thereby relieving the Vendor and the Vendor's Solicitors of the requirement to respond directly or specifically to the Purchaser's requisitions.
8. The Purchaser hereby agrees to submit to the Vendor or the Vendor's Solicitor on the earlier of the Occupancy Date and twenty (20) days prior to 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.
9. (a) The Purchaser agrees to accept title subject to the following:
- (i) the Condominium Documents, notwithstanding that they may be amended and varied from the proposed Condominium Documents in the general form attached to the Disclosure Statement delivered to the Purchaser as set out in Schedule "D";
 - (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) any other municipal requirements including building and zoning by-laws, noise attenuation provisions or environmental notices, warnings or covenants affecting or relating to the use or development of the Unit, the Condominium or other improvements to the Property;
 - (v) all leases, service or maintenance contracts and license rights to occupy portions of the common elements, if any, which are in accordance with the Condominium Documents or the Act;

- (vi) 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;
 - (vii) unregistered or inchoate liens for unpaid utilities in respect of which no formal bill, account or invoice has been issued by the relevant utility authority (or if issued, the time for payment of same has not yet expired), without any claim or request by the Purchaser for any utility holdback(s) or reduction/abatement in the Purchase Price, provided that the Vendor delivers to the Purchaser the Vendor’s written undertaking to pay all outstanding utility accounts owing with respect to the Property (including any amounts owing in connection with any final meter reading(s) taken on or immediately prior to the Unit Transfer Date, if applicable), as soon as reasonably possible after the completion of this transaction; and
 - (viii) any notice of security interest in respect of any personal property contemplated by this Agreement or the Condominium Documents.
- (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 situate (the “**Municipality**”), or by any of the other governmental authorities, of security (e.g. in the form of cash, letters of credit, a performance bond, etc., satisfactory to the Municipality and/or any of the other governmental authorities) intended to guarantee the 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 9(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, licences, covenants, agreements, and/or rights, required pursuant to this Agreement and shall observe and comply with all of the terms and provisions therewith. The Purchaser may be required to obtain a similar covenant (enforceable by and in favour of the Vendor), in any agreement entered into between the Purchaser and any subsequent transferee of the Unit.
- (e) The Purchaser covenants and agrees to use the Unit for the Business or, subject to the terms of this Agreement following the Unit Transfer Date. The Purchaser acknowledges that it is the Purchaser’s sole responsibility to ensure that the Purchaser’s use of the Unit is in compliance with all municipal by-laws. 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 the Business use or 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 is responsible for obtaining his or her or its own occupancy permit or other occupancy authorization from the local municipality. The Vendor shall not be liable for any damages the Purchaser may suffer in the event the Purchaser is unable to obtain same.
- (g) The Purchaser covenants and agrees that the Purchaser shall not, either before or after closing, utilize or allow the Unit to be utilized, and/or apply for or allow any person to apply for any occupancy permit in respect of the Unit which shall permit the use thereof contrary to the zoning by-law applicable to the Unit and as specified in this Agreement.
- (h) The Purchaser agrees that notwithstanding anything to the contrary contained herein the use of the Unit is hereby further restricted as follows:
- (i) The Unit shall not be used in such a manner or for any purpose which results in a level of noise and/or vibration and/or odour emanating from the Unit which is offensive and/or which is a nuisance to any one or more or all of the other units.
 - (ii) In no event shall the Unit be used for:
 - (a) a massage parlour;
 - (b) a pet store or other business that offers live animals for sale;
 - (c) a tattooing establishment;
 - (d) an escort service;
 - (e) a business whose principal business is the sale of fireworks or firecrackers of any kind;
 - (f) an auction, flea market, pawn shop or similar type business;
 - (g) an adult entertainment facility, or an adult bookstore, video store or other adult facility principally selling or displaying adult paraphernalia or pornographic books, literature, videotapes, or digital video discs (material shall be considered “adult” or pornographic” for such purpose if same is not available for sale or rental to, or viewing by, persons under 18 years of age); or
10. 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.
11. The Purchaser acknowledges that the Unit may be encumbered by mortgages (and collateral security thereto) which are not intended to be assumed by the Purchaser and that the Vendor shall not be obliged to obtain and register (partial) discharges of such mortgages insofar as they affect the Unit on the Unit Transfer Date. The Purchaser agrees to accept the Vendor’s solicitors undertaking to obtain and register (partial) discharges of such mortgages, 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 mortgages with respect to the Unit;
 - (b) a direction from the Vendor to the Purchaser to pay such amounts to the mortgagee(s) (or to whomever the mortgagees may direct) on the 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 mortgagees 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.
12. 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 Occupancy 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 Occupancy Date nor the Unit Transfer Date shall be delayed on that account.

The Planning Act

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

Occupancy

14. (a) This Agreement shall be completed on the Occupancy Date or any extensions thereof as permitted under this Agreement, at which time vacant possession shall be given to the Purchaser.
- (b) The Vendor shall be entitled upon giving at least thirty (30) days written notice to the Purchaser or his or her or its Solicitor to accelerate the Occupancy Date provided the Unit is substantially complete in accordance with the terms of this Agreement.
- (c) If the Vendor shall be unable to provide occupancy on the Occupancy Date for any reason whatsoever, the Vendor may extend the Occupancy Date one or more times as may be required by the Vendor, all extensions in the aggregate not to exceed twenty-four (24) months.
- (d) Upon registration of the Creating Documents, the Vendor's Solicitor shall designate a date not less than thirty (30) days after registration thereof as the Unit Transfer Date by delivery of written notice of such date to the Purchaser or his/her Solicitor, provided that the Vendor may extend the Unit Transfer Date one or more times as may be required by the Vendor, all extensions in the aggregate not to exceed twelve (12) months.

Purchaser's Covenants, Representations and Warranties

15. The Purchaser covenants and agrees that this Agreement is subordinate to and postponed to any mortgages arranged by the Vendor and any advances thereunder from time to time, and to any easement, license or other agreement concerning the Condominium and the Condominium Documents. The Purchaser further agrees to consent to and execute all documentation as may be required by the Vendor in this regard and the Purchaser hereby irrevocably appoints the Vendor as the Purchaser's attorney to execute any consents or other documents required by the Vendor to give effect to this paragraph. The Purchaser hereby consents to the Vendor obtaining a consumer's report containing credit and/or personal information for the purposes of this transaction. The Purchaser further agrees to deliver to the Vendor, 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.
16. 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 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 26 hereof. The Purchaser hereby irrevocably consents to a court order removing such notice of this Agreement, any caution, or any other document or instrument whatsoever from title to the Property, Unit or the Condominium and the Purchaser agrees to pay all of the Vendor's costs and expenses in obtaining such order (including the Vendor's Solicitor's fees on a solicitor and client basis).
17. The Purchaser covenants not to list for sale or lease, advertise for sale or lease, sell or lease, nor in any way assign his or her interest under this Agreement, or the Purchaser's rights and interests hereunder or in the Unit, nor directly or indirectly permit any third party to list or advertise the Unit for sale or lease, at any time until after the 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 consequence of termination by reason of the Purchaser's default, shall apply. The Purchaser shall be entitled to direct that title to the Unit be taken in the name of his or her spouse, or a member of his or her immediate family only, and shall not be permitted to direct title to any other third parties.
18. The Purchaser 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.
19. 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

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

Delays

21. If the Vendor shall be unable to complete the Unit for occupancy by the Occupancy Date, as may be extended from time to time pursuant to this Agreement, then, unless the parties hereto otherwise agree in writing, the Purchaser shall have the right to terminate this Agreement by notice in writing to the Vendor or the Vendor's Solicitor and all monies to the extent provided for in Paragraph 20 hereof, shall be returned to the Purchaser and this Agreement shall be terminated and the Vendor shall not be liable to the Purchaser for any damages arising as a result thereof and shall have no further obligation hereunder. If the Unit is substantially completed for occupancy by the Occupancy Date or any acceleration/extension thereof in accordance with this Agreement, this transaction shall be completed on such date notwithstanding that the

Vendor has not fully completed the Unit or the common elements and the Vendor shall complete such outstanding work required by this Agreement within a reasonable time after the Occupancy Date, having regard to weather conditions and the availability of labour and materials. The Unit shall be deemed to be substantially completed when certified by the Vendor's architect that the Vendor's Work as provided for in Schedule "B" has been substantially completed, the Purchaser acknowledges that neither the Occupancy Date nor the Unit Transfer Date are conditional upon the Vendor obtaining an occupancy permit or building permit for any improvements beyond the Vendor's Work in Schedule "B" hereof.

Warranties

22. (a) The Purchaser acknowledges and agrees that the clearance by the building department of the municipality shall subject to the provisions of Paragraph 25, 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 forgoing 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 warranty 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 or the common elements of the Condominium 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

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

Occupancy

24. If the Creating Documents have not been registered as of the Occupancy Date, (or in the event the Condominium is registered prior to the Occupancy Date and sale documentation has yet to be prepared), the Purchaser shall pay to the Vendor on the Occupancy Date a further amount on account of the Purchase Price specified in paragraph 1(b) hereof without adjustment save for any pro-rated portion of the Occupancy Fee described and calculated in Schedule "C", and the Purchaser shall occupy the Unit on the Occupancy Date pursuant to the Occupancy Licence attached hereto as Schedule "C".

Inspection

25. The Purchaser agrees to meet the Vendor's representative at the time designated by the Vendor prior to the Occupancy Date, to inspect the Unit and to list all items remaining incomplete at the time of such inspection together with all mutually agreed deficiencies with respect to the Unit, on the Vendor's standard form of certificate of inspection ("Certificate"). The said Certificate shall be executed by both the Purchaser and the Vendor's representative forthwith after such inspection. Except as to those items specifically listed in the Certificate, the Purchaser shall be deemed to have acknowledged that the Unit has been completed in accordance with this Agreement and the Purchaser shall be deemed conclusively to have accepted the Unit. The completion of the foregoing inspection and the endorsement of the Certificate by the Vendor are conditions of the Vendor's obligation to provide occupancy to the Unit to the Purchaser and to complete this transaction on the Closing Date. In the event the Purchaser fails to execute the Certificate prior to the Closing Date, the Vendor may declare the Purchaser to be in default under this Agreement and exercise any or all of its remedies set forth herein or at law or may complete such form on behalf of the Purchaser and the Purchaser hereby irrevocably appoints the Vendor his attorney to complete the Certificate on his behalf and the Purchaser shall be bound as if he had executed the Certificate. The Vendor agrees to complete all reasonable items set forth in the Certificate in respect of the Unit in accordance with its obligations pursuant to this Agreement within one (1) year from the Unit Transfer Date.

Purchaser's Default

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

Common Elements

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

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

Executions

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

Risk

29. 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

30. 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)*.
31. The Vendor and Purchaser agree to pay the costs of registration of their own documents and any tax in connection therewith.
32. 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.
33. This Offer and its acceptance is to be read with all changes of gender or number required by the context and the terms, provisions and conditions hereof shall be for the benefit of and be binding upon the Vendor and the Purchaser, and as the context of this Agreement permits, their respective heirs, estate trustees, successors and assigns.
34. It is acknowledged and agreed by the Purchaser that the dimensions, floor area or square footage of the Unit, as represented to 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 abatement or claim for compensation whatsoever.
35. (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 36 of this Agreement shall be validly made by the Vendor upon the Purchaser, by a representative of the Vendor attending at the offices of Harris, Sheaffer, LLP at 12:00 noon on the Unit Transfer Date or the Occupancy 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 35(a) hereof, in the event the Purchaser or his Solicitor advise the Vendor or its Solicitors, on or before the Occupancy 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 formal tender upon the Purchaser or his Solicitor and may exercise forthwith any and all of its right and remedies provided for in this Agreement and at law.
36. 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 registerable documentation); and
- (ii) shall be governed by the Escrow Document Registration Agreement, pursuant to which the solicitor receiving the documents, keys and/or certified funds will be required to hold same in escrow, and will not be entitled to release same except in strict accordance with the provisions of the Escrow Document Registration Agreement.
- (c) If the Purchaser's lawyer is unwilling or unable to complete this transaction via TERS, in accordance with the provisions contemplated under the Escrow Document Registration Agreement, then said lawyer (or the authorized agent thereof) shall be obliged to personally attend at the office of the Vendor's solicitor, at such time on the scheduled closing date as may be directed by the Vendor's solicitor or as mutually agreed upon, in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's solicitor's office, and shall pay a fee as determined by the Vendor's solicitor, acting reasonably for the use of the Vendor's computer facilities.
- (d) The Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the Transfer/Deed to the Unit for registration until the balance of funds due on closing, in accordance with the statement of adjustments, are either remitted by certified cheque via personal delivery or by electronic funds transfer to the vendor's solicitor (or in such other manner as the latter may direct) prior to the release of the Transfer/Deed for registration.
- (e) Each of the parties hereto agrees that the delivery of any documents not intended for registration on title to the Unit may be delivered to the other party hereto by telefax transmission (or by a similar system reproducing the original) or by electronic transmission of electronically signed documents through the Internet, provided that all documents so transmitted have been duly and properly executed by the appropriate parties/signatories thereto which may be by electronic

signature. The party transmitting any such document shall also deliver the original of same (unless the document is an electronically signed document) to the recipient party by overnight courier sent the day of closing or within 7 business days of closing, if same has been so requested by the recipient party.

- (f) Notwithstanding anything contained in this agreement to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been validly made by the Vendor upon the Purchaser when the Vendor's solicitor has:
- (i) delivered all closing documents, 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, and specifically when the "completeness signatory" for the transfer/deed has been electronically "signed" by the Vendor's solicitor;

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

37. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
38. The headings of this Agreement form no part hereof and are inserted for convenience of reference only.
39. Each of the provisions of this Agreement shall be deemed independent and severable and the invalidity or unenforceability in whole or in part of any one or more of such provisions shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Agreement, and in such event all the other provisions of this Agreement shall continue in full force and effect as if such invalid provision had never been included herein.
40. The Purchaser acknowledges that the Vendor may from time to time lease any and all unsold units in the Condominium and this paragraph shall constitute notice to the Purchaser as registered owner of the Unit after the Unit Transfer Date pursuant to the Act.
41. (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 so signing with respect to the obligations of the Purchaser herein.

Notice

42. 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 or facsimile transmission to the attention of the Purchaser or to the Purchaser's Solicitor to their respective addresses indicated herein or to the address of the Unit after the Occupancy Date and to the Vendor at 126 Hazelton Avenue, Toronto, Ontario, M5R 2E5 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 one day following facsimile transmission and upon the third day following posting, excluding Saturdays, Sundays and holidays.

Cause of Action/Assignment

43. (a) The Purchaser acknowledges and agrees that notwithstanding any rights which he or she might otherwise have at law or in equity arising out of this Agreement, the Purchaser shall not assert any of such rights, nor have any claim or cause of action whatsoever as a result of any matter or thing arising under or in connection with this Agreement (whether based or founded in contract law, tort law or in equity, and whether for innocent misrepresentation, negligent misrepresentation, breach of contract, breach of fiduciary duty, breach of constructive trust or otherwise), against any person, firm, corporation or other legal entity, other than the person, firm, corporation or legal entity specifically named or defined as the Vendor herein, even though the Vendor may be (or may ultimately be found or adjudged to be) a nominee or agent of another person, firm, corporation or other legal entity, or a trustee for and on behalf of another person, firm, corporation or other legal entity, and this acknowledgment and agreement may be pleaded as an estoppel and bar against the Purchaser in any action, suit, application or proceeding brought by or on behalf of the Purchaser to assert any of such rights, claims or causes of action against any such third parties.
- (b) At any time prior to the 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.

Economic Viability

44. Notwithstanding the provisions of paragraph 14 hereof, the completion of the transaction contemplated by this Agreement is conditional upon the Vendor being satisfied on or before _____ ("Viability Date"), in its sole and absolute discretion, with the economic feasibility and viability of proceeding with the development of and/or construction of the Condominium (including the Unit) as contemplated by this Agreement, failing which this Agreement shall be null and void and the deposit or deposits returned to the Purchaser with interest in accordance with the Act and without deduction, and this condition shall be deemed satisfied and waived by the Vendor in the event that the Vendor does not post or deliver notice to the contrary to the Purchaser or his or her Solicitor within thirty (30) days of the Viability Date (the "Notice Period"), provided the Vendor may unilaterally extend this condition for not more than three (3) periods of up to four (4) months each and provided the Vendor gives notice post-marked on or before the expiry of the Notice Period or any renewal thereof. The Purchaser acknowledges that the commencement of construction of the Condominium (including the Unit) shall not be construed as a waiver or satisfaction of these conditions. The Purchaser further acknowledges that these conditions are for the sole benefit of the Vendor and may be waived by the Vendor at its sole and absolute discretion at any time in whole or in part without notice to the Purchaser.

Irrevocability

45. 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 telefax 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 telefaxed 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 telefaxed to the intended party, provided that a confirmation of such telefaxed 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 telefaxed copy.

Non-Merger

46. 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/Warning Provisions

47. (a) The Purchaser acknowledges that it is anticipated by the Vendor that in connection with the Vendor's application to the appropriate governmental authorities for draft plan of condominium approval certain requirements may be imposed upon the Vendor by various governmental authorities. These requirements (the "Requirements") usually relate to warning provisions to be given to Purchasers in connection with environmental or other concerns (such as warnings relating to noise levels, the proximity of the Condominium to major streets and similar matters). Accordingly, the Purchaser covenants and agrees that: (i) on either the Occupancy Date or Unit Transfer Date, as determined by the Vendor, the Purchaser shall execute any and all documents required by the Vendor acknowledging, inter alia, that the Purchaser is aware of the Requirements; and (ii) if the Vendor is required to incorporate the Requirements into the final Condominium Documents the Purchaser shall accept the same, without in any way affecting this transaction.
- (b) The Purchaser is hereby advised that the Vendor's builder's risk and/or comprehensive liability insurance (effective prior to the registration of the Condominium), and the Condominium's master insurance policy (effective from and after the registration of the Condominium) will only cover the common elements and the standard unit and will not cover any betterments or improvements made to the standard unit, nor any furnishings or personal belongings of the Purchaser or other occupants of the Unit, and accordingly the Purchaser should arrange for his or her own insurance coverage with respect to same, effective from and after the Occupancy Date, all at the Purchaser's sole cost and expense.
- (c) The Purchaser acknowledges and agrees that the Vendor (and any of its authorized agents, representatives and/or contractors), as well as one or more authorized representatives of the Condominium, shall be permitted to enter the Unit after 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.

Pre-Approval

48. This Agreement is conditional upon the Vendor being satisfied, in its sole and absolute discretion with the credit worthiness of the Purchaser. The Vendor shall have ninety (90) days from the date of acceptance of this Agreement by the Vendor to satisfy itself with respect to such credit worthiness. This condition is included for the sole benefit of the Vendor and may be waived by it, at its sole option, at any time. The Purchaser covenants and agrees to provide all requisite information and materials including proof respecting income and source of funds as the Vendor may require to determine the Purchaser's credit worthiness. The Vendor must notify the Purchaser in writing that this condition has not been waived or satisfied prior to midnight on the 90th day following the date of acceptance of this Agreement by the Vendor, failing which the Vendor shall be deemed to have waived said condition and this Agreement shall be firm and binding. If the Vendor so notifies the Purchaser in writing that the condition has not been satisfied or waived, this Agreement shall be null and void and all deposit monies shall be returned to the Purchaser in full with interest pursuant to the Act and without deduction. The Purchaser acknowledges that it may be necessary for the Vendor to obtain credit or other information in order to satisfy itself as to the Purchaser's credit worthiness and authorizes the Vendor to obtain any consumer reports or other information it may require and any consumer reporting agency or credit bureau is hereby authorized to release such information as the Vendor may request.

Purchaser's Work

49. 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.
- (iii) 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 one dollar (\$1.00) times the Area of the 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.
- (iv) The Purchaser shall not be permitted to perform any Purchaser's Work in the common elements.
- (v) 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.

- (vi) The Purchaser shall deliver to the Vendor a letter of credit in the form and in an amount required by the Vendor acting reasonably in order to secure the Purchaser's obligations under this paragraph 49.
- (c) Prior to the performing any work, the Purchaser shall obtain all necessary consents, permits, licences, certificates and inspections from all municipal, governmental and regulatory authorities having jurisdiction, and shall make available to the Vendor copies of same and shall post permits as required.
- (d)
 - (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 alternations 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) Wherever 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.
- (j) The Purchaser covenants and agrees that the Purchaser shall not, either before or after closing, be entitled 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, to any portion of the common elements, including without limitation to the interior or exterior surface of any windows or doors adjacent to the Unit, except as herein specifically provided or as provided under the Condominium Documents.

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

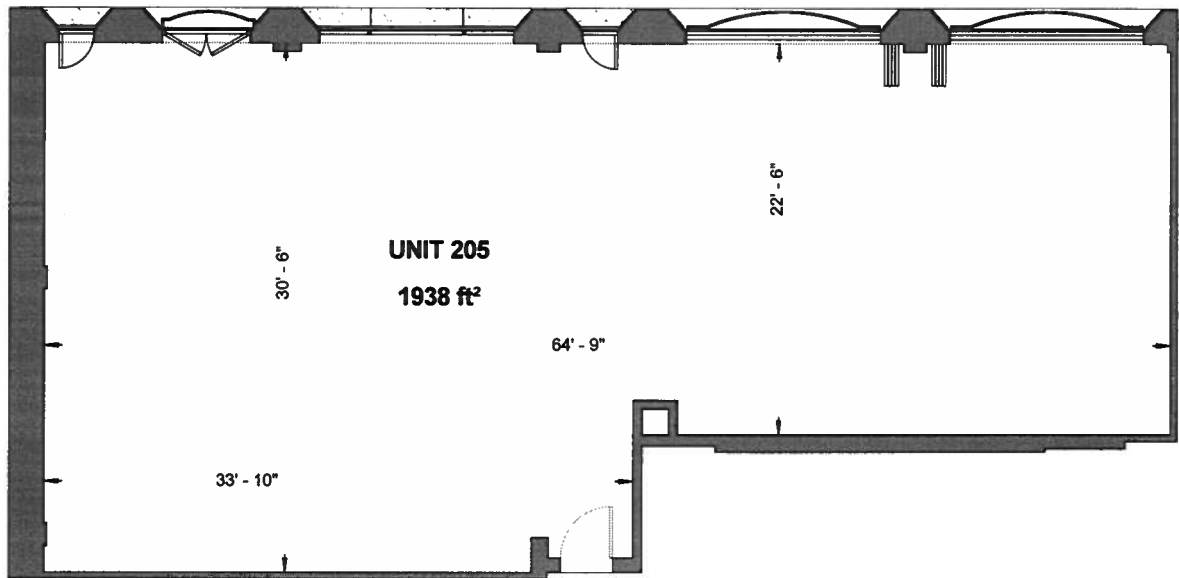
50. For the purposes of facilitating compliance with the provisions of any applicable Federal and/or Provincial privacy legislation (including without limitation, the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, as amended), the Purchaser hereby consents to the Vendor's 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, telefax/telephone number, age, date of birth, and in respect of marital status only for the limited purposes described in subparagraphs (c), (g), (h) and (i) 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 to 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
- (a) any companies or legal entities that are associated with, related to or affiliated with the Vendor, other future condominium declarants that are likewise associated with, related to or affiliated with the Vendor (or with the Vendor's parent/holding company) and are developing one or more other condominium projects or communities that may be of interest to the Purchaser or members of the Purchaser's family, for the limited purposes of marketing, advertising and/or selling various products and/or services to the Purchaser and/or members of the Purchaser's family;
 - (b) 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;
 - (c) any financial institution(s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, including without limitation, the Vendor's construction lender(s), the project monitor, the Vendor's designated 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;

- (d) 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 title insurance companies providing (or wishing to provide) title insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of this transaction;
- (e) any 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
- (f) 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;
- (g) 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 Customs & Revenue Agency (i.e. with respect to HST);
- (h) Canada Customs & Revenue Agency, to whose attention the T-5 interest income tax information return and/or the NR4 non-resident withholding tax information return is submitted (where applicable), which will contain or refer to the Purchaser's social insurance number or business registration number (as the case may be), as required by Regulation 201(1) (b) (ii) of The Income Tax Act R.S.C. 1985, as amended;
- (i) the Vendor's solicitors, to facilitate the interim occupancy and/or final closing of this transaction, including the closing by electronic means via the Teraview Electronic Registration System, and which may (in turn) involve the disclosure of such personal information to an internet application service provider for distribution of documentation;
- (j) 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
- (k) any person, where the Purchaser further consents to such disclosure or disclosures required by law.

SCHEDULE "A" TO THE AGREEMENT OF PURCHASE AND SALE

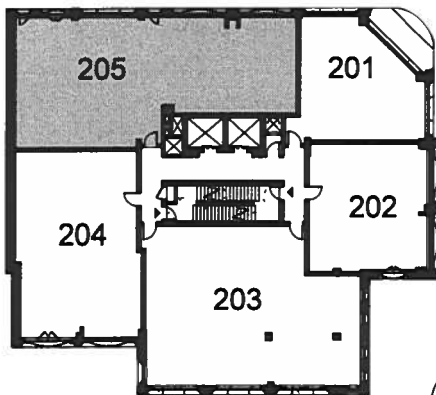
SKETCH

Level 2 , Legal Unit No UNIT 5



SUITE AREA: 1938 ft²

*AREAS PROVIDED BY KRCMAR SURVEYORS LTD.



*NOTE:
 -STRUCTURAL LAYOUT TO BE COORDINATED
 -COLUMNS MAY BE ADDED AS REQUIRED

Materials, specifications, floor plans and dimensions are subject to change without notice. Window sizes and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and bacony areas, subject to change E. & O.E.



[Signature]
 Purchaser Acknowledgement

Dec 6/16
 Date

SCHEDULE "B" TO THE AGREEMENT OF PURCHASE AND SALE

FEATURES AND FINISHES

- **Laundry Room**
 - Ceramic floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
 - High efficiency front loading Washer and Dryer selected from Vendor's standard selections
- **Living Room & Dining Room**
 - Pre-finished engineered Hardwood floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling lights
- **Foyer**
 - Pre-finished engineered Hardwood floor in entranceway selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Kitchen & Breakfast**
 - Kitchen cabinetry selected from Vendor's standard selections
 - Stone countertops with coordinated backsplash selected from Vendor's standard selections
 - Stainless steel sink with coordinated fixture selected from Vendor's standard selections
 - Pre-finished engineered Hardwood floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
 - Valence lighting under cabinets
 - Gas or Electric Cooktop, Oven, Dishwasher, Refrigerator, Microwave and Hood fan selected from Vendor's standard selections
- **Powder Room**
 - Vanity with stone countertop selected from Vendor's standard selections
 - Under-mounted sink and fixtures selected from Vendor's standard selections
 - Privacy lock
 - Stone tile floor selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Terraces/Balconies**
 - In selected suites as per plan
 - Railing as per architectural building design
 - Exterior lighting as per architectural building design
- **Library/Den**
 - Pre-finished engineered Hardwood floor or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Master Bedroom Suite**
 - Pre-finished engineered Hardwood floor or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Master Ensuite**
 - Stone tiles selected from Vendor's standard selections
 - Heated floor with thermostatic control
 - Vanity with stone countertop, under-mounted sink, and fixtures selected from Vendor's standard selections
 - Bathtub and coordinated fixtures as per plan
 - Frameless glass shower enclosure as per plan
 - L.E.D. recessed ceiling light
 - Privacy lock
- **Guest Bathroom**
 - Stone tiles selected from Vendor's standard selections
 - Vanity with stone countertop, under-mounted sink, and fixtures selected from Vendor's standard selections
 - Bathtub and coordinated fixtures as per plan
 - Frameless glass shower enclosure as per plan
 - L.E.D. recessed ceiling light
 - Privacy lock
- **Bedroom**
 - Pre-finished engineered Hardwood floors or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- **Ceilings, Walls & Doors**
 - Minimum of 10' high ceilings (dropped ceilings at Kitchen, Bathrooms, Closets, Foyer, Laundry Room and Mechanical Room)
 - Smooth ceilings, walls and bulkheads throughout
 - 7" Baseboards
 - 3 ½" Door casing with backband
 - Solid doors throughout
 - Door hardware selected from Vendor's standard selections
 - All ceilings, walls, baseboards, mouldings and doors to be painted.
 - Paint selected from Vendors standard selections
 - Energy Star custom windows with low E coating and argon gas
- **Mechanical**
 - Heat Pump with Humidifier and programmable thermostat
- **Lighting & Electrical**
 - White decorative switches and receptacles throughout
 - L.E.D. recessed ceiling light; 1 per 50 sq. feet
 - Ceiling light provision in Kitchen, Dining Room, Living Room and all Bedrooms
 - Valence lighting under kitchen cabinets
 - Rough-in for sconces and/or surface mounted fixtures in Master Ensuite and Powder Room
- **Technology**
 - Rough-in for cable, telephone, internet in Living Room, Kitchen, Library/Den and all Bedrooms

SCHEDULE "C" TO AGREEMENT OF PURCHASE AND SALE

TERMS OF OCCUPANCY LICENCE

- C.1. The transfer of title to the Unit shall take place on the Unit Transfer Date upon which date, unless otherwise expressly provided for hereunder, the term of this Occupancy Licence shall be terminated.
- C.2. The Purchaser shall pay or have paid to the Vendor, on or before the Occupancy Date, by certified cheque drawn on a Canadian chartered bank the amount set forth in paragraph 1(b) of this Agreement without adjustment. Upon payment of such amount on the Occupancy Date, the Vendor grants to the Purchaser a licence to occupy the Unit from the Occupancy Date.

The Purchaser shall pay to the Vendor the Occupancy Fee calculated as follows:

- (a) the amount of interest payable in respect of the unpaid balance of the Purchase Price at the prescribed rate;
- (b) an amount reasonably estimated by the Vendor on a monthly basis for municipal realty taxes attributable by the Vendor to the Unit; and
- (c) the projected monthly common expense contribution for the Unit;

as an occupancy charge on the first day of each month in advance during Interim Occupancy, no part of which shall be credited as payments on account of the Purchase Price, but which payments shall be a charge for occupancy only. If the Occupancy Date is not the first day of the month, the Purchaser shall pay on the Occupancy Date a pro rata amount for the balance of the month by certified funds. The Purchaser shall deliver to the Vendor on or before the Occupancy Date a series of post-dated cheques as required by the Vendor for payment of the estimated monthly Occupancy Fee. The Occupancy Fee may be recalculated by the Vendor, from time to time based on revised estimates of the items which may be lawfully taken into account in the calculation thereof and the Purchaser shall pay to the Vendor such revised Occupancy Fee following notice from the Vendor. With respect to taxes, the Purchaser agrees that the amount estimated by the Vendor on account of municipal realty taxes attributed to the Unit shall be subject to recalculation based upon the real property tax assessment or reassessment of the Units and/or Condominium, issued by the municipality after the Unit Transfer Date and the municipal tax mill rate in effect as at the date such assessment or reassessment is issued. The Occupancy Fee shall thereupon be recalculated by the Vendor and any amount owing by one party to the other shall be paid upon demand.

- C.3. The Purchaser shall be allowed to remain in occupancy of the Unit during Interim Occupancy provided the terms of this Occupancy Licence and the Agreement have been observed and performed by the Purchaser. In the event the Purchaser breaches the terms of occupancy the Vendor in its sole discretion and without limitation of any other rights or remedies provided for in this Agreement or at law may terminate this Agreement and revoke the Occupancy Licence whereupon the Purchaser shall be deemed a trespasser and shall give up vacant possession forthwith. The Vendor may take whatever steps it deems necessary to obtain vacant possession and the Purchaser shall reimburse the Vendor for all costs it may incur.
- C.4. At or prior to the time that the Purchaser takes possession of the Unit, the Purchaser shall execute and deliver to the Vendor any documents, directions, acknowledgments, assumption agreements or any and all other documents required by the Vendor pursuant to this Agreement, in the same manner as if the closing of the transaction was taking place at that time.
- C.5. The Purchaser shall pay the monthly Occupancy Fee during Interim Occupancy and the Vendor shall return all unused post-dated Occupancy Fee cheques to the Purchaser on or shortly after the Unit Transfer Date.
- C.6. The Purchaser agrees to maintain the Unit in a clean and sanitary condition and not to make any alterations, improvements or additions thereto without the prior written approval of the Vendor which may be unreasonably withheld. The Purchaser shall be responsible for all utility, telephone expenses, cable television service, or other charges and expenses billed directly to the occupant of the Unit by the supplier of such services and not the responsibility of the Corporation under the Condominium Documents.
- C.7. The Purchaser's occupancy of the Unit shall be governed by the provisions of the Condominium Documents and the provisions of this Agreement. The Unit may only be occupied and used in accordance with the Condominium Documents and for no other purpose.
- C.8. The Vendor covenants to proceed with all due diligence and dispatch to register the Condominium Documents. If the Vendor for any reason whatsoever is unable to register the Condominium Documents and therefore is unable to deliver a registrable Transfer/Deed to the Purchaser within eighteen (18) months after the Occupancy Date, the Purchaser or Vendor shall have the right after such eighteen (18) month period to give sixty (60) days written notice to the other, of an intention to terminate the Occupancy Licence and this Agreement. If the Vendor and Purchaser consent to termination, the Purchaser shall give up vacant possession and pay the Occupancy Fee to such date, after which this Agreement and Occupancy Licence shall be terminated and all moneys paid to the Vendor on account of the Purchase Price shall be returned to the Purchaser together with interest required by the Act, subject however, to any repair and redecorating expenses of the Vendor necessary to restore the Unit to its original state of occupancy, reasonable wear and tear excepted. The Purchaser and Vendor each agree to provide a release of this Agreement in the Vendor's standard form. If the Vendor and Purchaser do not consent to termination, the provisions of Section 79(3) of the Act may be invoked by the Vendor.
- C.9. The Vendor and the Purchaser covenant and agree, notwithstanding the taking of possession, that all terms hereunder continue to be binding upon them and that the Vendor may enforce the provisions of the Occupancy Licence separate and apart from the purchase and sale provisions of this Agreement.
- C.10. The Purchaser acknowledges that the Vendor holds a fire insurance policy on the Condominium including all aspects of a standard unit only and not on any improvements or betterments made by or on behalf of the Purchaser. It is the responsibility of the Purchaser, after the Occupancy Date to insure the improvements or betterments to the Unit and to replace and/or repair same if they are removed, injured or destroyed. The Vendor is not liable for the Purchaser's loss occasioned by fire, theft or other casualty, unless caused by the Vendor's willful conduct.
- C.11. The Purchaser agrees to indemnify the Vendor for all losses, costs and expenses incurred as a result of the Purchaser's neglect, damage or use of the Unit or the Condominium, or by reason of injury to any person or property in or upon the Unit or the Condominium resulting from the negligence of the Purchaser, members of his immediate family, servants, agents, invitees, tenants, contractors and licensees. The Purchaser agrees that should the Vendor elect to repair or redecorate all or any part of the Unit or the Condominium as a result of the Purchaser's neglect, damage or use of the Unit or Condominium, he will immediately reimburse the Vendor for the cost of doing same, the determination of need for such repairs or redecoration shall be at the discretion of the Vendor, and such costs may be added to the Purchase Price.
- C.12. In accordance with clause 80(6) (d) and (e) the Act, subject to strict compliance by the Purchaser with the requirements of occupancy set forth in this Agreement, the Purchaser shall not have the right to assign, sublet or in any other manner dispose of the Occupancy Licence during Interim Occupancy without the prior written consent of the Vendor which consent may be arbitrarily withheld. The Purchaser acknowledges that an administrative fee will be payable to the Vendor each time the Purchaser wishes to assign, sublet or dispose of the Occupancy Licence during Interim Occupancy.
- C.13. The provisions set forth in this Agreement, unless otherwise expressly modified by the terms of the Occupancy Licence, shall be deemed to form an integral part of the Occupancy Licence. In the event the Vendor elects to terminate the Occupancy Licence pursuant to this Agreement following substantial damage to the Unit and/or the Condominium, the Occupancy Licence shall terminate

forthwith upon notice from the Vendor to the Purchaser. If the Unit and/or the Condominium can be repaired within a reasonable time following damages as determined by the Vendor (but not, in any event, to exceed one hundred and eighty (180) days) and the Unit is, during such period of repairs uninhabitable, the Vendor shall proceed to carry out the necessary repairs to the Unit and/or the Condominium with all due dispatch and the Occupancy Fee shall abate during the period when the Unit remains uninhabitable; otherwise, the Purchaser shall vacate the Unit and deliver up vacant possession to the Vendor and all moneys, to the extent provided for in paragraph 20 hereof (excluding the Occupancy Fee paid to the Vendor) shall be returned to the Purchaser. It is understood and agreed that the proceeds of all insurance policies held by the Vendor are for the benefit of the Vendor alone.

SCHEDULE "D" 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 December 11, 2015 and accompanying documents in accordance with Section 72 of the Act.
- 2. A copy of the Agreement of Purchase and Sale (to which this acknowledgment is attached as a Schedule) executed by the Vendor and the Purchaser.

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

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

DATED at Toronto this 5TH day of Dec. 2016

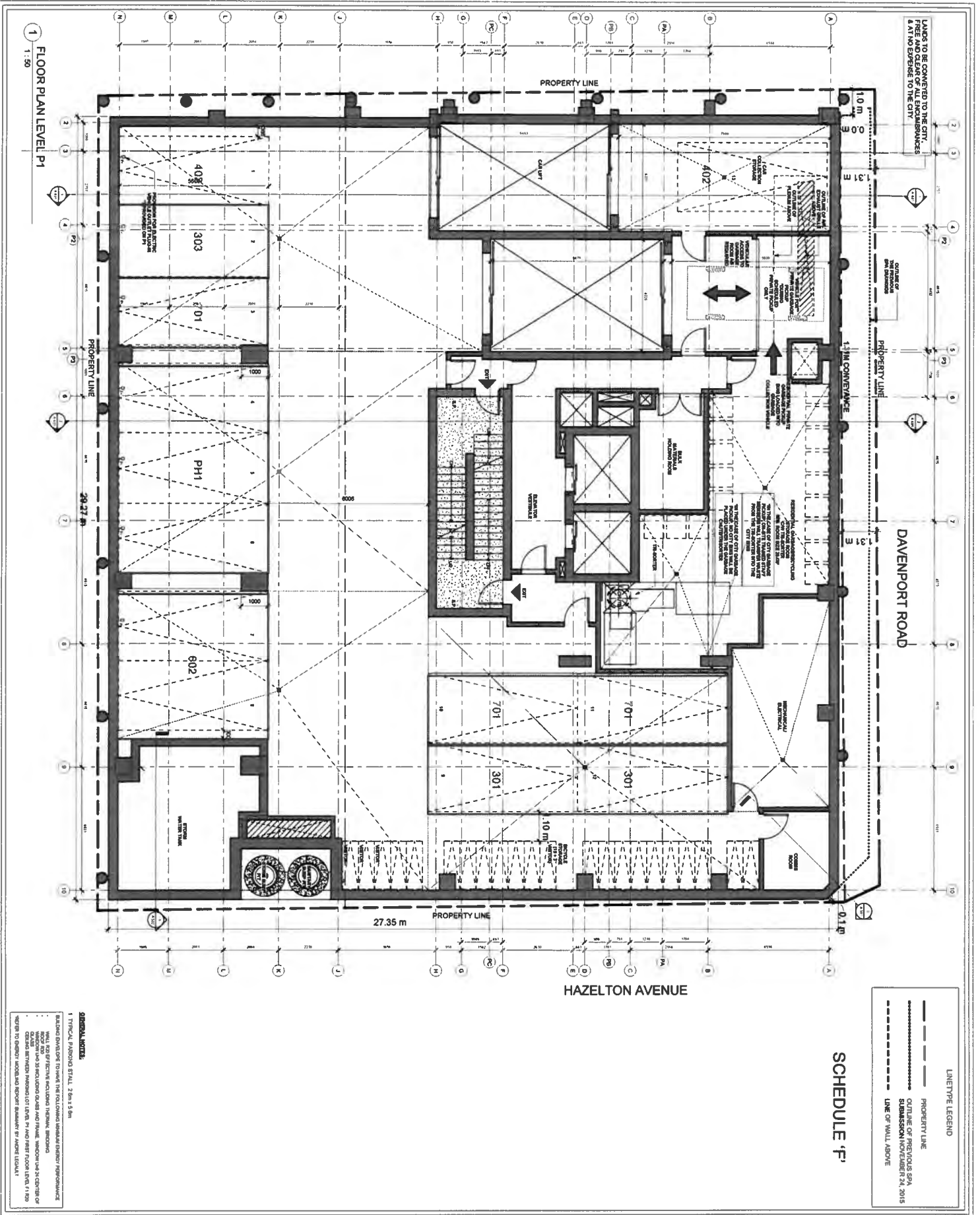
WITNESS:

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[Handwritten signature]
Purchaser

Purchaser



LAND TO BE CONVEYED TO THE CITY.
FREE AND CLEAR OF ALL ENCUMBRANCES
& A TMO DEEMED TO THE CITY.

DAVENPORT ROAD

HAZELTON AVENUE

SCHEDULE 'P'

LINETYPE LEGEND	
	PROPERTY LINE
	OUTLINE OF PREVIOUS SPA SUBMISSION NOVEMBER 24, 2015
	LINE OF WALL ABOVE

1 FLOOR PLAN LEVEL P1
1:50

GENERAL NOTES:

- 1 TYPICAL PARKING STALL, 2.8m x 5.8m
- 2 DIMENSIONS INDICATED IN RED REFER TO THE FINISH FACE OF CONCRETE OR METALWORK UNLESS SPECIFIED OTHERWISE.
- 3 DIMENSIONS INDICATED IN BLUE REFER TO THE UNFINISHED FACE OF CONCRETE OR METALWORK UNLESS SPECIFIED OTHERWISE.
- 4 DIMENSIONS INDICATED IN GREEN REFER TO THE UNFINISHED FACE OF CONCRETE OR METALWORK UNLESS SPECIFIED OTHERWISE.
- 5 DIMENSIONS INDICATED IN YELLOW REFER TO THE UNFINISHED FACE OF CONCRETE OR METALWORK UNLESS SPECIFIED OTHERWISE.
- 6 DIMENSIONS INDICATED IN PURPLE REFER TO THE UNFINISHED FACE OF CONCRETE OR METALWORK UNLESS SPECIFIED OTHERWISE.
- 7 DIMENSIONS INDICATED IN BLACK REFER TO THE UNFINISHED FACE OF CONCRETE OR METALWORK UNLESS SPECIFIED OTHERWISE.

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128 AND 128 1/2 HAZELTON AVENUE AND 201, 203 AND 205 DAVENPORT ROAD
VANCOUVER, BC V6E 2E1
TEL: 604.681.2222
WWW.AUDAXARCHITECTURE.COM

FLOOR PLAN LEVEL P1

REVISIONS

NO	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	2015-08-05
2	ISSUED FOR PERMITTING	2015-08-05
3	ISSUED FOR PERMITTING	2015-08-05
4	ISSUED FOR PERMITTING	2015-08-05
5	ISSUED FOR PERMITTING	2015-08-05
6	ISSUED FOR PERMITTING	2015-08-05
7	ISSUED FOR PERMITTING	2015-08-05
8	ISSUED FOR PERMITTING	2015-08-05
9	ISSUED FOR PERMITTING	2015-08-05
10	ISSUED FOR PERMITTING	2015-08-05
11	ISSUED FOR PERMITTING	2015-08-05
12	ISSUED FOR PERMITTING	2015-08-05
13	ISSUED FOR PERMITTING	2015-08-05
14	ISSUED FOR PERMITTING	2015-08-05
15	ISSUED FOR PERMITTING	2015-08-05
16	ISSUED FOR PERMITTING	2015-08-05
17	ISSUED FOR PERMITTING	2015-08-05
18	ISSUED FOR PERMITTING	2015-08-05
19	ISSUED FOR PERMITTING	2015-08-05
20	ISSUED FOR PERMITTING	2015-08-05
21	ISSUED FOR PERMITTING	2015-08-05
22	ISSUED FOR PERMITTING	2015-08-05
23	ISSUED FOR PERMITTING	2015-08-05
24	ISSUED FOR PERMITTING	2015-08-05
25	ISSUED FOR PERMITTING	2015-08-05
26	ISSUED FOR PERMITTING	2015-08-05
27	ISSUED FOR PERMITTING	2015-08-05
28	ISSUED FOR PERMITTING	2015-08-05
29	ISSUED FOR PERMITTING	2015-08-05
30	ISSUED FOR PERMITTING	2015-08-05

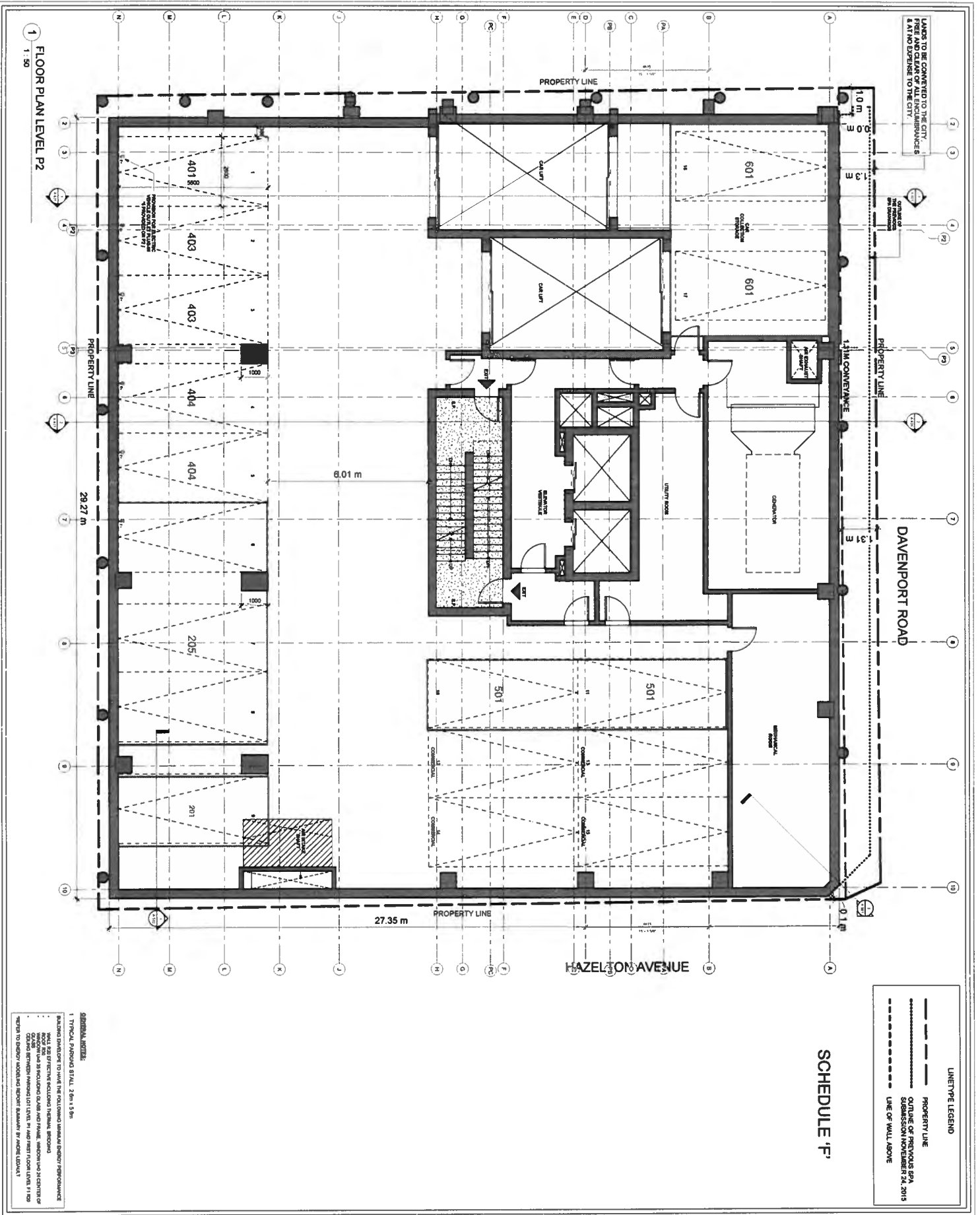
PROJECT INFORMATION

PROJECT TITLE: 128 AND 128 1/2 HAZELTON AVENUE AND 201, 203 AND 205 DAVENPORT ROAD

PROJECT NUMBER: A 203

SCALE: As indicated

DATE: 15/05



1 FLOOR PLAN LEVEL P2
1:50

LINE TYPE LEGEND

- PROPERTY LINE
- OUTLINE OF PREVIOUS SPA SUBMISSION FOR DRAWING SA 2015
- LINE OF WALL ABOVE

SCHEDULE 'F'

GENERAL NOTES:

- 1 TYPICAL PARTITION 8 WALL, 2.0m x 1.5m
- BUILDING ENVELOPE TO HAVE THE FOLLOWING MINIMUM ENERGY PERFORMANCE
- WALLS 0.225 METRE EXCLUDING INTERNAL BRICKING
- ROOF 0.225 METRE EXCLUDING INTERNAL BRICKING
- GLAZING 0.225 METRE EXCLUDING INTERNAL BRICKING
- GLAZING BETWEEN INTERNAL LOT LEVELS TO HAVE FIRST FLOOR LEVELS 1.150
- *REFERS TO ENERGY MODELING REPORT SUBMITTED BY ARCHITECT (S04A1)

PROJECT NAME: 128 AND 129 HAZELTON AVENUE AND 201, 205 AND 209 DAVENPORT ROAD

DATE: 15-03-2022

SCALE: As Indicated

PROJECT NUMBER: A 202

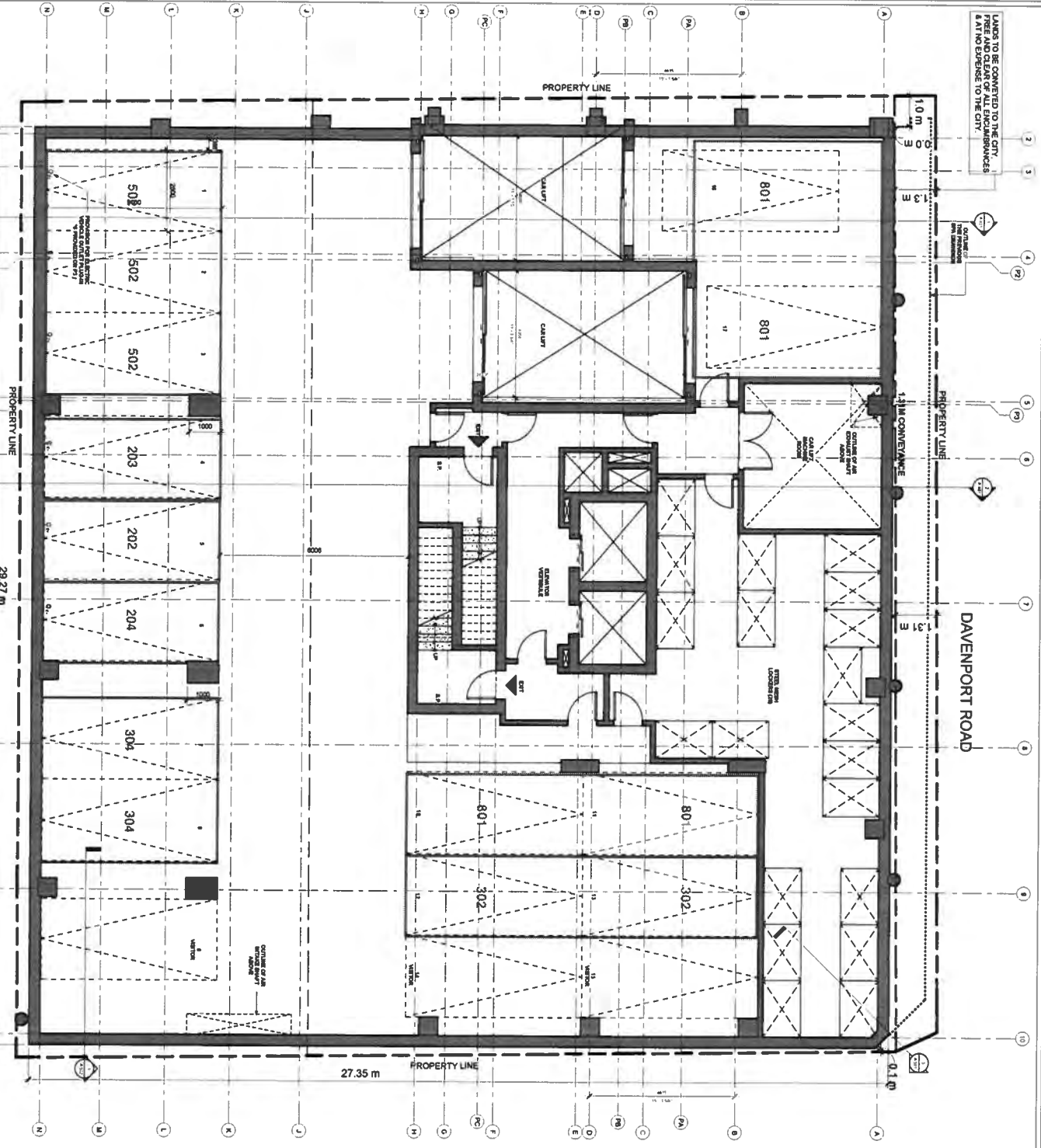
REVISIONS:

NO	DESCRIPTION	DATE
30	PROCESSED SET	2018-10-25
29	REVISED PER SW COMMENTS	2018-10-31
28	REVISED PER SW COMMENTS	2018-10-27
27	REVISED PER SW COMMENTS	2018-10-24
26	REVISED PER SW COMMENTS	2018-10-24
25	REVISED PER SW COMMENTS	2018-10-24
24	REVISED PER SW COMMENTS	2018-10-24
23	REVISED PER SW COMMENTS	2018-10-24
22	REVISED PER SW COMMENTS	2018-10-24
21	REVISED PER SW COMMENTS	2018-10-24
20	REVISED PER SW COMMENTS	2018-10-24
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8	REVISED PER SW COMMENTS	2018-10-24
7	REVISED PER SW COMMENTS	2018-10-24
6	REVISED PER SW COMMENTS	2018-10-24
5	REVISED PER SW COMMENTS	2018-10-24
4	REVISED PER SW COMMENTS	2018-10-24
3	REVISED PER SW COMMENTS	2018-10-24
2	REVISED PER SW COMMENTS	2018-10-24
1	REVISED PER SW COMMENTS	2018-10-24

FLOOR PLAN LEVEL P2

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TORONTO, ONTARIO M5S 1A1
TEL: 416-593-8888
WWW.AUDAXARCHITECTURE.COM



1
FLOOR PLAN LEVEL P3
1:50

SCHEDULE 'F'

PROPERTY LEGEND

- PROPERTY LINE
- - - - - OUTLINE OF PREVIOUS SP4 SUBMISSION NOVEMBER 24, 2015
- - - - - LINE OF WALL ABOVE

GENERAL NOTES:

1 TYPICAL PAVING STALL 2.8m x 3.8m

BUILDING DESIGNED TO MEET THE FOLLOWING MINIMUM ENERGY PERFORMANCE:

- WALL R-15
- FLOOR R-20
- CEILING R-15
- GLAZING U-0.30
- GLAZING SHADING COEFFICIENT (SC) 0.60
- GLAZING SOLAR HEAT GAIN COEFFICIENT (SHGC) 0.75

WALLS AND ROOF SHALL BE CONSIDERED AS A SINGLE SYSTEM FOR THE PURPOSE OF CALCULATING THE R-VALUE.

VERIFY TO DESIGN PROVIDER REPORT SUBMITTED BY AGENT/OWNER!

NO	DESCRIPTION	DATE
20	REVISED AS SET	2014-04-25
21	REVISED PER COMMENTS FOR SP4	2014-04-27
22	REVISED PER COMMENTS FOR SP4	2014-04-28
23	REVISED PER COMMENTS FOR SP4	2014-05-04
24	REVISED PER COMMENTS FOR SP4	2014-05-21
25	REVISED PER COMMENTS FOR SP4	2014-05-16
26	REVISED PER COMMENTS FOR SP4	2014-05-27
27	REVISED PER COMMENTS FOR SP4	2014-05-27
28	REVISED PER COMMENTS FOR SP4	2014-06-18
29	REVISED PER COMMENTS FOR SP4	2014-06-18
30	REVISED PER COMMENTS FOR SP4	2014-06-18
31	REVISED PER COMMENTS FOR SP4	2014-06-18
32	REVISED PER COMMENTS FOR SP4	2014-06-18
33	REVISED PER COMMENTS FOR SP4	2014-06-18
34	REVISED PER COMMENTS FOR SP4	2014-06-18
35	REVISED PER COMMENTS FOR SP4	2014-06-18
36	REVISED PER COMMENTS FOR SP4	2014-06-18
37	REVISED PER COMMENTS FOR SP4	2014-06-18
38	REVISED PER COMMENTS FOR SP4	2014-06-18
39	REVISED PER COMMENTS FOR SP4	2014-06-18
40	REVISED PER COMMENTS FOR SP4	2014-06-18
41	REVISED PER COMMENTS FOR SP4	2014-06-18
42	REVISED PER COMMENTS FOR SP4	2014-06-18
43	REVISED PER COMMENTS FOR SP4	2014-06-18
44	REVISED PER COMMENTS FOR SP4	2014-06-18
45	REVISED PER COMMENTS FOR SP4	2014-06-18
46	REVISED PER COMMENTS FOR SP4	2014-06-18
47	REVISED PER COMMENTS FOR SP4	2014-06-18
48	REVISED PER COMMENTS FOR SP4	2014-06-18
49	REVISED PER COMMENTS FOR SP4	2014-06-18
50	REVISED PER COMMENTS FOR SP4	2014-06-18

FLOOR PLAN LEVEL P3

PROJECT TITLE:
128 AND 128 HAZELTON AVENUE AND 201, 203 AND 205 DAVENPORT ROAD

CLIENT:
A 201

DATE:
13/06/2014

AUDAX

architecture + design

100 EAST WILSON AVENUE, SUITE 201, MISSISSAUGA, ONTARIO L4R 1A2
 TEL: 905.508.0822 FAX: 905.508.0823
 www.audaxinc.com

Appendix “J”

A Concise Appraisal Report
of:
Office Condominium Units
Municipally known as:

**128 Hazelton Avenue Units 201 and 204
City of Toronto**

Prepared For:

RBC Wealth Management
200 Bay Street, 25th Floor
Toronto, Ontario
M5J 2J5

Attention: Paul Smith

Prepared By:

Simon & Associates Ltd.
4250 Weston Road
2nd Floor
Toronto, Ontario
M9L 1W9

July 26, 2024

File No.: 24-022

Paul Smith
RBC Wealth Management
200 Bay Street, 25th Floor
Toronto, Ontario
M5J 2J5



Simon & Associates Ltd.
Real Estate Appraisers and Consultants
4250 Weston Road
2nd Floor
Toronto, Ontario M9L 1W9
Tel: (416) 398-1234

Dear Paul Smith:

Re: Valuation of 128 Hazelton Avenue Units 201 and 204, City of Toronto

As requested, we have performed an investigation and valuation analysis of the above-described property for your information and guidance. This appraisal is not to be referred to or quoted in any prospectus for the sale or exchange of any securities and may not be reproduced in whole or in part without our prior written agreement.

Based on the study carried out, it is the considered opinion of the appraiser that the environmentally unimpaired, market value of the Condominium Tenure of the subject property, as of July 19, 2024, is:

Condominium Units 201 and 204

**Two Million Seven Hundred Thousand Dollars
(\$2,700,000)**

Amenity Value

In addition to the above the 4 parking spaces and 2 lockers would add

**Five Hundred Thousand Dollars
(\$500,000)**

This appraisal report was prepared in accordance with the appraiser's understanding of the Canadian Uniform Standards of Professional Appraisal Practice and specifically addressed to RBC Wealth Management to provide an estimate of market value for mortgage lending purposes.

In order to comply with current liability requirements related to third party reliance, it should be understood that this report may not be relied upon by any person or entity other than an associate or representative of RBC Wealth Management, without written authorization from the author. It should also be understood that this letter forms part of the Short Narrative Appraisal and is invalid, as an opinion of value, if detached from the report.

For your convenience, descriptions of the subject property, summary of facts and procedures used are set forth in the body of the report. All opinions of value expressed herein are contingent upon the statement of Assumptions and Limiting Conditions that are set forth in the Addenda to this report.

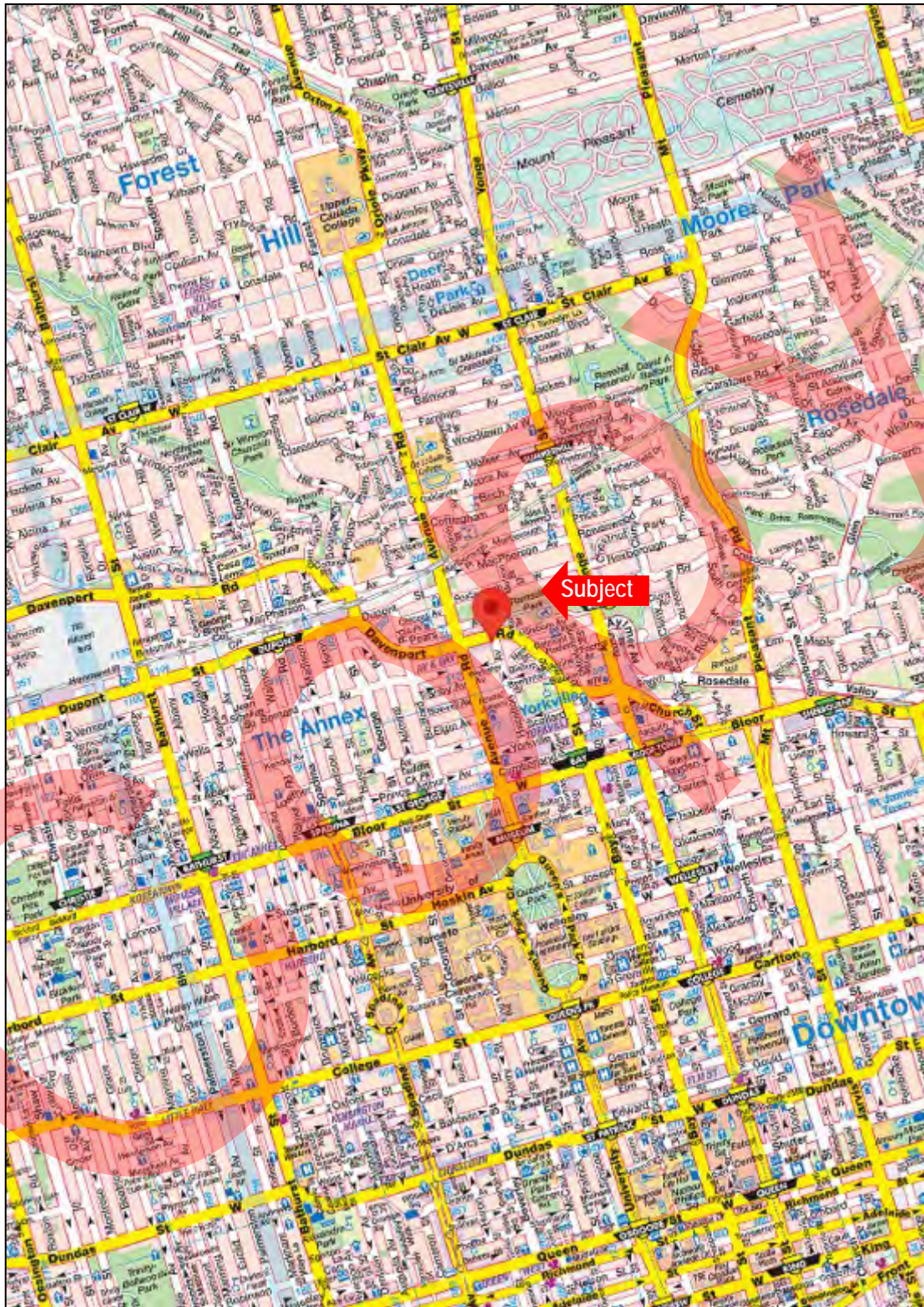
The undersigned have collaborated in the preparation of this appraisal report and concur with the finding here in. If you require any further information, please do not hesitate to contact the undersigned.

Yours very truly,
Simon & Associates Ltd.

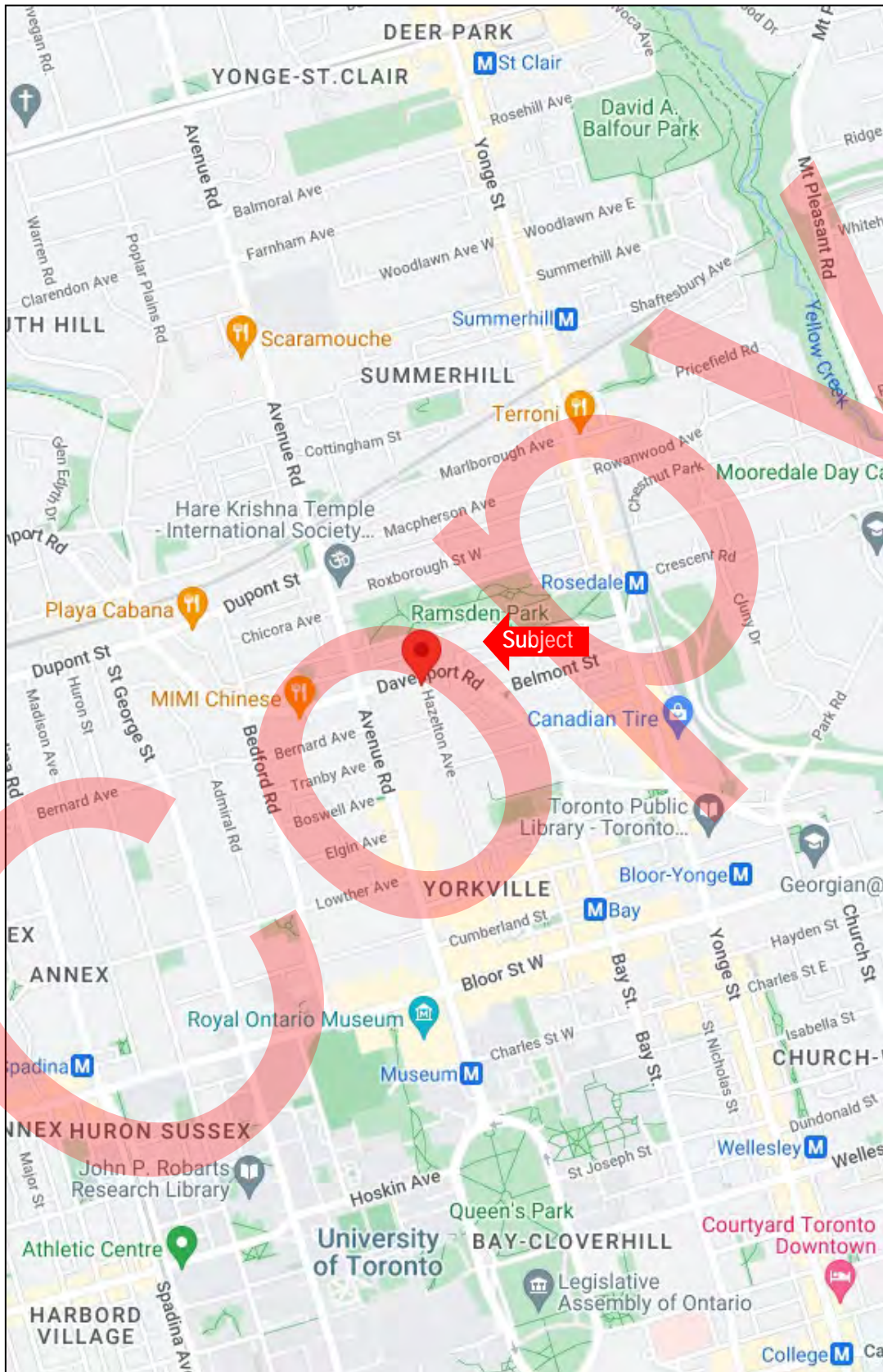
John T. Glen, MA, AACI, FRICS, MIMA
Senior Appraisal Consultant

John D Shaw Papp, AACI
Reviewer

General Area Map



Municipal Map



Exterior Photographs of Subject Condominium Property



Northeast View



Northwest View



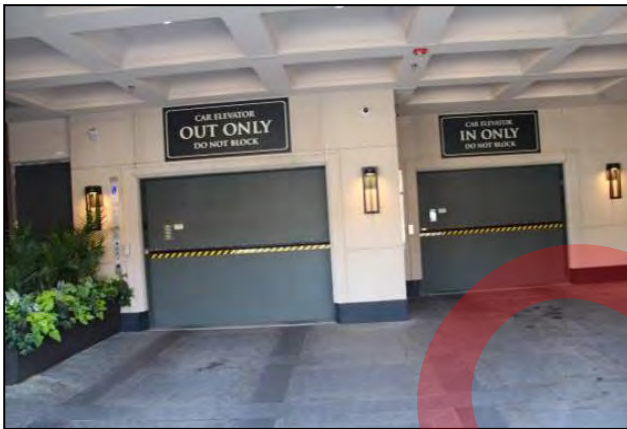
Hazelton Avenue Residential Entrance



130 Hazelton Avenue Entrance



Ground Floor Unit 101 Sale Sign



Parking



Davenport Avenue Looking East



Davenport Avenue Looking West

Scope of Appraisal Assignment

Each appraisal assignment is unique, depending upon the type and size of property being appraised; the complexity and significance of the appraisal problem; and the intended function of the appraisal.

The appraisal problem that is the focus of this engagement has been discussed and defined with the client; the work required to solve the problem planned; and the necessary market data was obtained, analysed, and reconciled into an estimate of the market value. The specific tasks and items necessary to complete this assignment included:

- Observe the property type of the subject, as well as the conformity and nature of the property types on the abutting and nearby sites;
- Perform a physical inspection of the interior and exterior of the subject property;
- Assembly and analyses of relevant information pertaining to the property being appraised, including acquisition particulars if acquired within three years prior to the date of appraisal;
- An inspection of the subject property and the surrounding area;
- Assembly and analysis of pertinent economic and market data;
- An analysis of land use controls pertaining to the subject property;
- An in-depth discussion and statement of highest and best uses;
- A discussion of the appraisal methodologies and procedures employed in arriving at indications of value;
- Inclusion of photographs, maps, graphics, and addenda/exhibits; and
- Reconciliation of the collected data into an estimate of market value as at the effective date of the appraisal.

At the request of the client, the findings have been conveyed in a short narrative appraisal report format. The term "short narrative" reflects the limited presentation of the analysis and includes the restricted use of the report, as outlined in the Assumptions and Limiting Conditions.

Terms of Reference

Purpose of Appraisal

Estimate the market value as of July 19, 2024 for mortgage financing purposes.

Intended Use

On behalf of RBC Wealth Management, for first mortgage financing purposes.

Definitions

Market Value is defined as:

“The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, for self-interest, and assuming the price is not affected by undue stimulus.¹” *“Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:*

1. *buyer and seller are typically motivated;*
2. *both parties are well informed and acting in their best interests;*
3. *a reasonable time is allowed for exposure in the open market;*
4. *payment is made in cash in Canadian dollars or comparable terms; and*
5. *the price represents the normal consideration for the property sold unaffected by special or creative financing granted by anyone associated with the sale.²”*

Exposure Time is defined as:

“The estimated length of time the property being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective estimate based upon an analysis of past events assuming a competitive and open market.³”

Marketing Time is defined as:

Marketing Time is an opinion on the amount of time it may take to sell a property interest in Real Estate at the concluded estimate of Market Value during the period immediately after the Effective Date of an appraisal. Marketing Time is forward-looking and predictive.⁴

The distinction between Exposure Time (i.e. past) and Marketing Time (i.e. future) must be made if the report refers to both⁵.

1 Appraisal Institute of Canada an Appraisal Institute (2023) *The Appraisal of Real Estate: Fourth Canadian Edition*, p. 6.2.

2 Ibid, p. 6.3

3 Ibid, p. 5.5

4 CUSPAP 2024 3.51

5 Appraisal Institute of Canada an Appraisal Institute (2023) *The Appraisal of Real Estate: Fourth Canadian Edition* p.32.22

Property Rights Appraised⁶:

The following are the definitions of property rights which may be appraised:

fee simple interest

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, expropriation, police power, and escheat.

leased fee interest

The ownership interest held by the lessor includes the right to the contract rent specified in the lease plus the reversionary right when the lease expires.

leasehold interest

The right held by the lessee to use and occupy real estate for a stated term and under the conditions specified in the lease.

Condominium Ownership⁷

A condominium is a form of ownership of separate units or portions of real estate with undivided ownership of common elements.

Property Rights Appraised

Condominium Tenure

Address

128 Hazelton Avenue Unit 201 and 204, Toronto, Ontario

PINs

76067-0001 and 76067-0004

Legal Description

TSCP 2967 LEVEL 2 UNIT 1 and TSCP 2967 LEVEL 2 UNIT 4, City of Toronto.

Occupancy

On the date of inspection, the subject units were occupied by Constantine Enterprises Inc. who have a 50% stake in the condo project at 128 Hazelton Avenue. Units 201 and 204 are occupied by Constantine for office uses

2024 Condominium Fees**Condo Fees**

Unit	Fees	Area	\$/sf
201	\$3,883.06	2,109	\$1.84
204	\$2,055.53	1,118	\$1.84
201 204	\$5,938.59	3,227	\$1.84

2024 Realty Taxes

Owner	Roll	Legal	Unit	CVA	Size	TaxRate	Taxes
MIZRAHI (128 HAZELTON) INC	190405225000106	TSCP 2967 LEVEL 2 UNIT 1	201	\$1,630,000	2,112	2.228677%	\$36,327.44
MIZRAHI (128 HAZELTON) INC	190405225000109	TSCP 2967 LEVEL 2 UNIT 4	204	\$886,000	1,118	2.228677%	\$19,746.08
MIZRAHI (128 HAZELTON) INC			201 204	\$2,516,000	3,230	2.228677%	\$56,073.51

⁶ *Dictionary of Real Estate Appraisal Sixth Edition*

⁷ Appraisal Institute of Canada (2023), *The Appraisal of Real Estate Fourth Canadian Edition*, page 7.16

Easements & Rights-of-Way

Unknown, title not searched.

Assumptions and Limiting Conditions

Outlined in the Addenda of this report.

Acquisition History

A Geowarehouse search has indicated no sales activity for the subject units in the past 3 years. However, the property is subject to a receivership application monitored by KPMG (see Addendum) which will see Constantine Enterprises Inc become the 100% owner. The subject units are still under the title of Mizrahi (128 Hazelton Inc.)

Value Conclusion**Units 201 and 204**

Units 201 and 204	
Approach	Value
Income Approach	\$2,320,000
Direct Comparison	\$2,940,000
Average	\$2,630,000
Market Value	\$2,700,000

Amenity Value

Amenity	Units	\$/Unit	Value
Parking Spaces	4	\$100,000	\$400,000
Lockers	2	\$50,000	\$100,000
Total Amenities			\$500,000

Receivership

The following is an article relevant to the ownership status of the subject property:

“Lost Confidence”: Mizrahi’s Yorkville Condo Project In Receivership As Partner Alleges \$47M Debt An affidavit from Constantine Enterprises Inc. — they have a 50% stake in the condo project at 128 Hazelton Avenue — slams Mizrahi Group for being over-budget to the tune of \$50M and more than five years behind schedule.

Zakiya Kassam, STOREYS

June 10, 2024

Amidst (even more) drama surrounding The One development in downtown Toronto, receivership proceedings over a luxury condo project at 128 Hazelton Avenue in Yorkville have come to a head.

The nine-storey, 20-unit condo project comes from Mizrahi Developments — as in Sam Mizrahi, the developer who dominated headlines in February when he was forced off The One in favor of SKYGRID Construction. Mizrahi partnered up with Toronto-based private real estate fund **Constantine Enterprises Inc.** for the Hazelton project back in 2015.

According to court filings from KSV Advisory, Constantine first made their plea for receivership on February 22, with Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc. named as the respondents, and Sam Mizrahi identified as the principal of both.

“CEI has lost confidence in Mizrahi and the Mizrahi Group’s ability to fulfill their financial obligations, past and ongoing,” Constantine’s April 26 affidavit explained, also citing a \$47M debt and noting that numerous demands for payment have already been made. “The development of the Hazelton Project, a luxury condominium development in the heart of Yorkville, is at a standstill because of the lack of funding and the breakdown in the relationship between CEI and Mizrahi, to the detriment of stakeholders, including other lenders, and the occupants of the Hazelton Project.”

That same document also alleged that, “based on Mizrahi’s most recently delivered budget, the cost of the Hazelton Project will exceed Mizrahi’s initial budget by over \$50M, and the estimated completion date is more than five years behind schedule based on Mizrahi’s current estimates. Additional funding is necessary to complete the Hazelton Project and the only viable lender is CEI. It is certainly not Mizrahi or the Mizrahi Group.”

Mizrahi Bites Back

The statements contained in Constantine’s affidavit are fighting words, no doubt, but when you consider what has been going on behind the scenes, the animosity makes sense. As stated in the court filings, Mizrahi has initiated legal action against Constantine and its co-founders, Robert Hiscox and Edward S. Rogers III, on the basis of “bad faith” and “breach of duties allegedly owing by the defendants.” Constantine maintains that these allegations are “bare” and “unparticularized,” and that they will be pursuing a motion to strike if need be.

In any case, the civil proceedings ‘bear no weight,’ on the receivership proceedings, according to a May 13 endorsement from Justice Cavanagh. Circling back to the latter: after Constantine filed an application with the Ontario court for receivership on April 16, Mizrahi reportedly put forth allegations that Constantine attempted to block the sale and closing of certain units within the building, contributing to the “inability to pay down the secured debt.” This is an assertion which Constantine has vehemently denied.

There is no evidence that units subject to agreements of sale are in a position to close or that CEI used its position to prevent those closings. In fact, part of the reason why CEI urgently seeks the appointment of the Receiver is to facilitate closings of those units when it is practical to do so,” Constantine said in a May 8 statement.

“Even if the units subject to agreements of sale close, a significant amount of secured Indebtedness will remain owing to CEI. The debtors speculate that Hazelton will receive \$27M from the sale and closing of the units. Even accepting the values proposed by the debtors, almost half of that amount — \$13M — relates to units that are not yet subject to agreements of purchase and sale and are not yet completed. It is unknown when those units will be sold or how much they will sell for.

“The debtors also do not account for how [they] will fund the additional costs to complete the Hazelton Project

and carry the debt in the interim. The debtors' argument that certain units may close absent a receivership is nothing more than a red herring."

The Receivership

A receivership order that was granted just last week — on June 4, 2024 — appoints KSV Advisory receiver and manager over the property at 126 and 128 Hazelton Avenue in Yorkville. The order allows KSV to exercise control over the property moving forward.

Meanwhile, Constantine's hope is that KSV will "facilitate the final phase of construction of the Hazelton project required for completion of the remaining units and, when appropriate, the closing of sold units and the marketing and sale of the unsold units" — all while preserving the value of the property in the interest of all stakeholders.

This marks the end of a long road for the Hazelton property. Back in January, the primary lender on the project, DUCA Financial Services Credit Union Ltd., petitioned the courts for receivership, saying that the developers were owing \$16M. (The figure was roughly half of the initial \$35M loan provided by Duca in June 2017.)

Less than a month later, on February 1, 2024, "DUCA assigned their rights, benefits, and interest in and to the DUCA commitment and DUCA Security to CEI pursuant to a debt purchase agreement," according to the aforementioned May 13 endorsement from Justice Cavanagh.

"As a result, on February 9, 2024, DUCA obtained an order dismissing its receivership application without prejudice."

General Area Description

Location

The subject property is situated on the southwest corner of Hazelton Avenue and Davenport Road the Yorkville/Annex Section of the City of Toronto.

Land Uses and Trends

The subject property is situated at Hazelton Avenue and Davenport Road

The Yorkville/Annex Area corridor was originally dominated by two and three storey, mixed-use buildings, most of which date from circa 1920's and contain restaurants or retail uses on the main level, and offices or apartments above. Many of these buildings have either, been renovated over the years to increase their utility and aesthetic appeal or are being replaced by higher density developments like the subject condominium development.

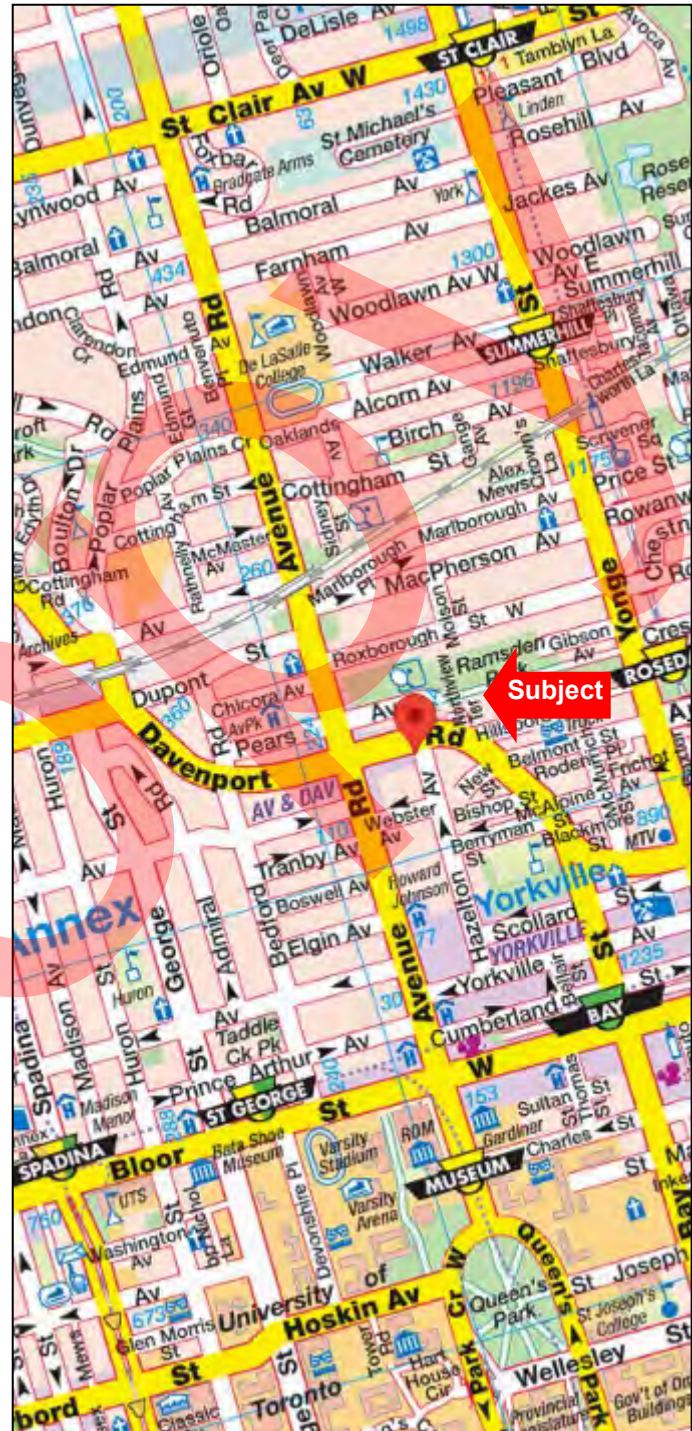
The area is enhanced by the Bay Street subway station which add to the desirability of the location and add to the quality of life for residents.

Transportation

Hazelton Avenue is a local street which connects to Yorkville Avenue to the south and Davenport Road to the north and is serviced by the Subway Line 2 which provides stops to the east and west.

Conclusion

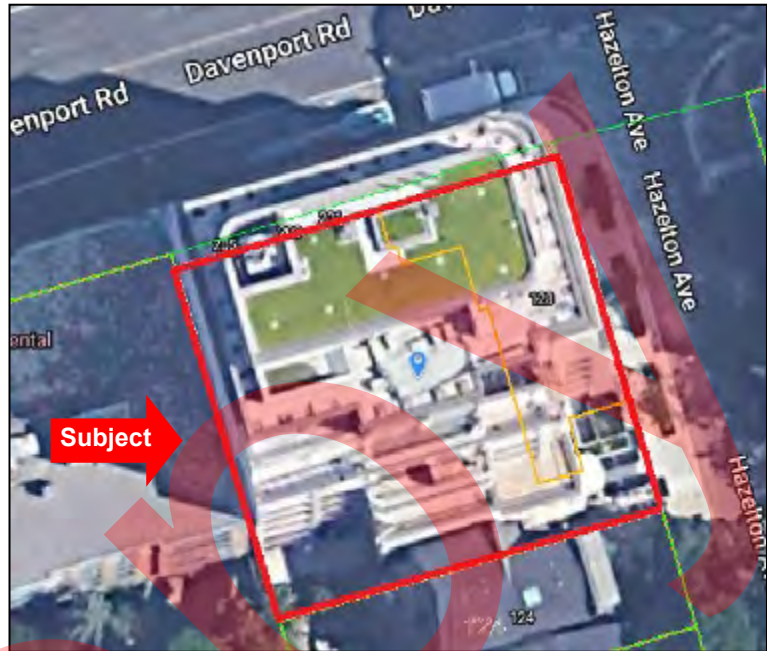
The subject provides a destination location for commercial uses, while enhanced by the proximity to the downtown core, desirable residential housing, as well as parks and the subway.



Site Description

Road Frontages

The site upon which the subject condominium complex is built comprises reasonably level land which is at approximate road grade with Hazelton Avenue and Davenport Road. According to CoStar the east limit of the site provides approximately 76.00 feet of frontage on the west side of Hazelton Avenue and a further 84.00 feet of frontage along the south side of Davenport Road and comprises a site area of 0.21 acres, or 9,148 square feet more or less.



Municipal Services

The subject property is complemented by full municipal services which include sanitary and storm sewers, water, hydro, gas and telephone, etc. Davenport Road is a major arterial road connecting with Bay Street which is paved and maintained by the municipality.

Easements & Rights-of-Way

The appraiser is not aware of any easements or rights-of-way which would be detrimental to the market value of the subject property.

Land Use Controls

The land use of a property is regulated by two municipal documents; the Zoning By-law and the Official Plan. The Zoning By-law is a detailed regulatory document outlining guidelines for construction and development. The Official Plan is a long-term policy document which dictates proposed land uses for zoning purposes and addresses issues such as traffic, transportation and servicing matters throughout the municipality.

Zoning

According to the City Toronto Zoning By-law 569-2013, as amended, the subject site is zoned “CR 2.0 (c1.0; r2.0) SS2 (x89)” – Commercial Residential Zone with an exception 89. Reference can be made to the following excerpts from Zoning By-law 569-2013 exhibiting the Zoning Map on the Right and uses permitted.

In the CR zone, the following uses are permitted under the letter "C" in the zone label:

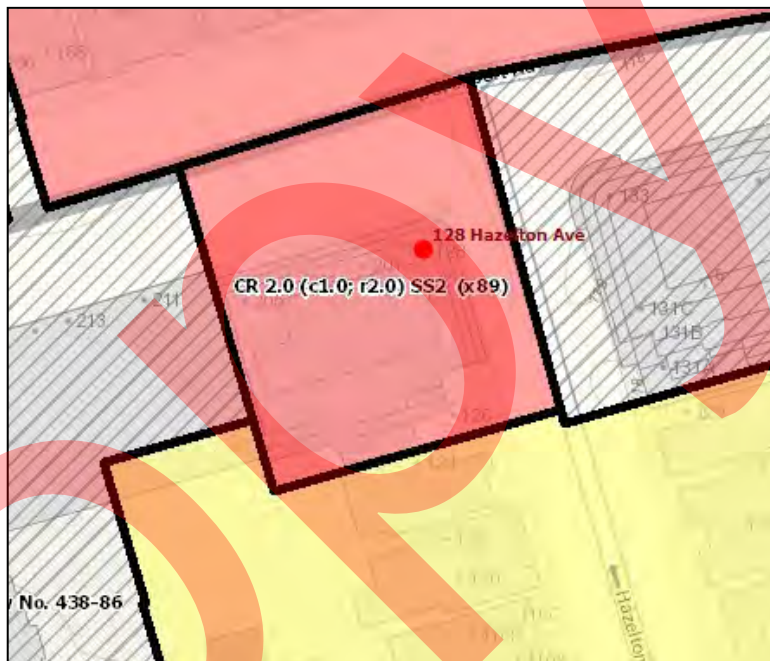
Ambulance Depot; Art Gallery; Artist Studio; Automated Banking Machine; Community Centre; Courts of Law; Education Use; Financial Institution; Fire Hall; Library; Massage Therapy; Medical Office; Museum; Office; Park; Passenger Terminal; Performing Arts Studio; Personal Service Shop; Pet Services; Police Station; Post-Secondary School; Production Studio; Religious Education Use; Software Development and Processing; Veterinary Hospital; Wellness Centre.

In the CR zone, the following uses are permitted under the letter "R" in the zone label:

Dwelling Unit; Hospice Care Home; Municipal Shelter; Nursing Home; Religious Residence; Residential Care Home; Respite Care Facility; Retirement Home; Student Residence.

Permitted Uses with conditions:

In the CR zone, the following uses are permitted with conditions under the letter "C" in the zone label: Amusement Arcade; Cabaret; Club; Cogeneration Energy; Custom Workshop; Day Nursery; Drive Through Facility; Eating Establishment; Entertainment Place of Assembly; Funeral Home; Hotel; Laboratory; Nightclub; Outdoor Patio; Outdoor Sales or Display; Place of Assembly; Place of Worship; Private School; Public Parking; Public School; Public Utility; Recreation Use; Renewable Energy; Retail Service; Retail Store; Service Shop; Sports Place of Assembly; Take-out Eating Establishment; Transportation Use; Vehicle Dealership; Vehicle Fuel Station; Vehicle Service Shop; Vehicle Washing Establishment



In the CR zone, the following uses are permitted with conditions under the letter "R" in the zone label: Crisis Care Shelter; Group Home; Home Occupation; Multi-tenant House; Private Home Daycare; Secondary Suite; Seniors Community House; Short-term Rental; Tourist Home

CR Exception 89

(89) Exception CR 89

The lands, or a portion thereof as noted below, are subject to the following Site-Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 126 and 128 Hazelton Avenue, clause 5.10.40.70, and regulations 40.10.40.1(1), 40.10.40.10(1), 40.10.40.50(1), 40.10.40.60(1) and (2), 40.10.40.70(2), 40.10.50.10(2) and (3), 40.10.100.10(1)(B), 200.5.1.10(5), 200.5.1.10(12), 200.5.1.10(13), 200.5.10.1., 200.15.1(1), 200.15.1.5(1), 200.15.10(1), 230.5.1.10(9) and 600.10.10 do not apply to prevent the erection or use of a building, structure, addition or enlargement if it complies with regulations (B) to (M) below; [By-law: 654-2018]
- (B) Despite 40.10.40.10(2), any building or structure erected on the lands must not exceed the height in meters specified by the numbers following the symbol "H" on Diagram 3 of By-law 1265-2016, with the exception of the follow:
- (i) canopies, awnings, safety railings, architectural features, parapets, trellises, balustrades, swimming pools and associated structures, window sills, window washing equipment, privacy screens and fences, wheelchair ramps, architectural screens, guardrails, chimneys, vents, stacks, terraces, architectural elements, green roof elements, roof access hatches, planters, elevator overruns and elements or structures on the roof of the building used for outside or open air recreation, safety or wind protection purposes, heating, cooling or ventilating equipment; and
 - (ii) swimming pools and associated structures may project a maximum of 3.0 meters beyond the heavy lines shown on Diagram 3 of By-law 1265-2016;
- (C) No portion of any building or structure above grade may be located otherwise than wholly within the areas delineated by the heavy lines on Diagram 3 of By-law 1265-2016. In addition to encroachments permitted in Section 40.10.40.60, the following encroachments are permitted to extend a maximum of 2.0 meters beyond the areas delineated by heavy lines on Diagram 3 of By-law 1265-2016:
- (i) cornices, light fixtures, ornamental elements, portico entrances, patios, decks, pillars, balconies, terraces, eaves, window sills, ventilation shafts, guardrails, balustrades, and awnings and canopies;
- (D) Despite 40.10.40.40(1), the total gross floor area of all buildings and structures on the lands as shown on Diagram 3 of By-law 1265-2016, must not exceed 5,760 square meters, of which:
- (i) residential uses must not exceed 5,560 square meters; and
 - (ii) non-residential uses must not exceed 370 square meters;
- (E) Amenity space must be provided at a minimum rate of 3.4 square meters for each dwelling unit, of

which:

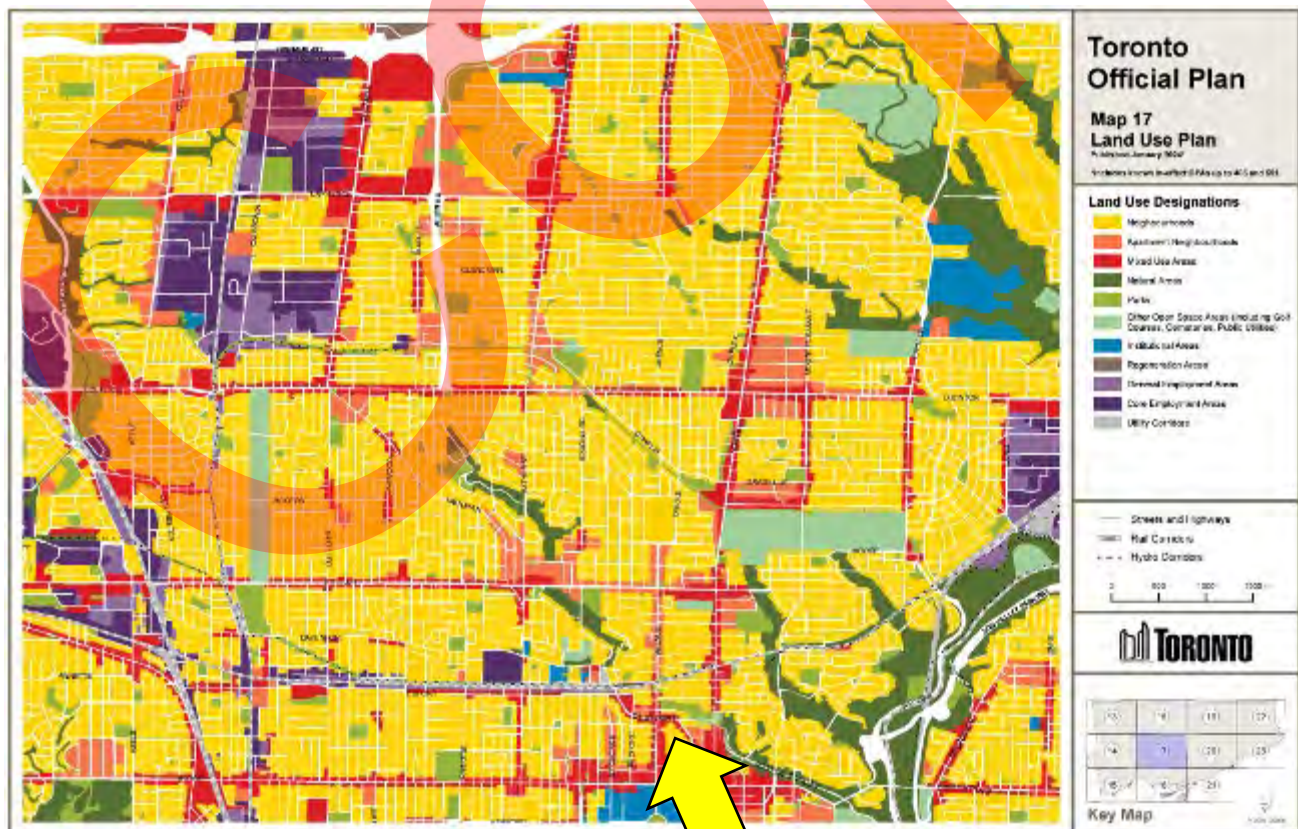
- (i) at least 2.0 square meters for each dwelling unit is indoor amenity space;
 - (ii) at least 30.0 square meters of outdoor amenity space is in a location adjoining or directly accessible to the indoor amenity space; and
 - (iii) no more than 25 percent of the outdoor amenity space may be a green roof;
- (F) A minimum of 47 parking spaces must be provided and maintained as follows:
- (i) A minimum of 40 parking spaces must be for the occupants of the building;
 - (ii) A minimum of 3 parking spaces must be for the use of residential visitors; and
 - (iii) A minimum of 4 parking spaces must be for non-residential uses;
- (G) Despite Section 200.5.1.10(5), a maximum of 8 required parking spaces may be a tandem parking space;
- (H) A maximum of 1 parking space that is obstructed is not required to comply with regulation 200.5.1.10(2)(A);

Official Plan

The Official Plan for the City of Toronto indicates the subject property is designated **Mixed Use Area** which permits a variety of commercial and residential uses.

Conclusion

The existing commercial use of the subject condominium unit appears to be a legal and conforming use.



SUBJECT CONDOMINIUM DEVELOPMENT

The subject condominium consists of a **58,343 square foot 9-storey mixed residential and commercial** development with 20 residential units on **9,148 square foot site** for a building FAR of **6.38**. Construction started in 2018 and has yet to be completed as of July 2024.

**Environmental Overview**

The subject property is improved with 9 storey residential and commercial medium-rise condominium complex which dates from 2021. On the date of inspection, the subject units were used for office purposes.

The appraiser did not observe the storage or use of any chemicals, or the like, which would pose an environmental threat to the property. This statement is, however, based on a visual inspection of the premises, as real estate appraisers, and not environmental consultants. As a result, reader be advised that it has been assumed that the subject property is free of any contaminants, whatsoever, which would cause a loss in value.

The preceding statements are based on our observations, as real estate appraisers, not environmental consultants. Thus, an environmental audit by engineers is necessary to determine the integrity of the land and building.

Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyls, petroleum leakage, or agricultural chemicals, which may be present on the property, or other environmental conditions, were not called to the attention of nor did the appraiser become aware of such during the appraiser's inspection.

If the presence of such substances, such as asbestos, urea formaldehyde foam insulation, or other hazardous substances or environmental conditions, which, may affect the value of the property, no responsibility is assumed for any such conditions, nor for any expertise or engineering knowledge required to discover them.

Further to the preceding, for the purpose of this report, the appraiser has assumed that the subject property is environmentally unimpaired. As a result, the estimated market value herein is predicated on the assumption that there is no such condition on or in the property or in such proximity thereto that it would cause a loss in value.

COPY

Description of Improvements

Largely completed in December 2021, 128 Hazelton Avenue is located at the southwest corner of Davenport Road and Hazelton Avenue. Standing at 9-storeys, the building offers 20 units of residential with a good list of amenities. Included on the ground and second floor are commercial condominium units.

SUBJECT PROPERTY

A fully finished, second floor commercial condominium unit in the corner section of the building with exposure to Davenport Road. The unit contains a front from the second-floor lobby which has access to Davenport Road. One entrance off Hazelton Avenue to the development is for residential owners and the second off Davenport is for the second-floor commercial owner.

Unit Size

As of the effective date, the certified area of the subject units was not available. Thus, for the purpose of this report, the appraiser has incorporated the size as reported on the Architect's Certificate of unit sizes on pages 16 and 17:

Unit	Area
201	2,109
204	1,118
201 204	3,227

Interior Description

The front entrance leads to a predominantly open area with a reception area. There is a conference meeting room one with offices along the Davenport and Hazelton frontage/ Unit 204 has a lunch area and kitchen. There are also washrooms, an IT closet and mechanical closet.

The finishes comprise standard materials which carpeting and ceramic flooring, painted drywall walls, acoustic tiled ceilings and LED lighting. The unit is serviced by an HVAC system, sprinklers, and adequate natural light via windows along the north and east elevation.

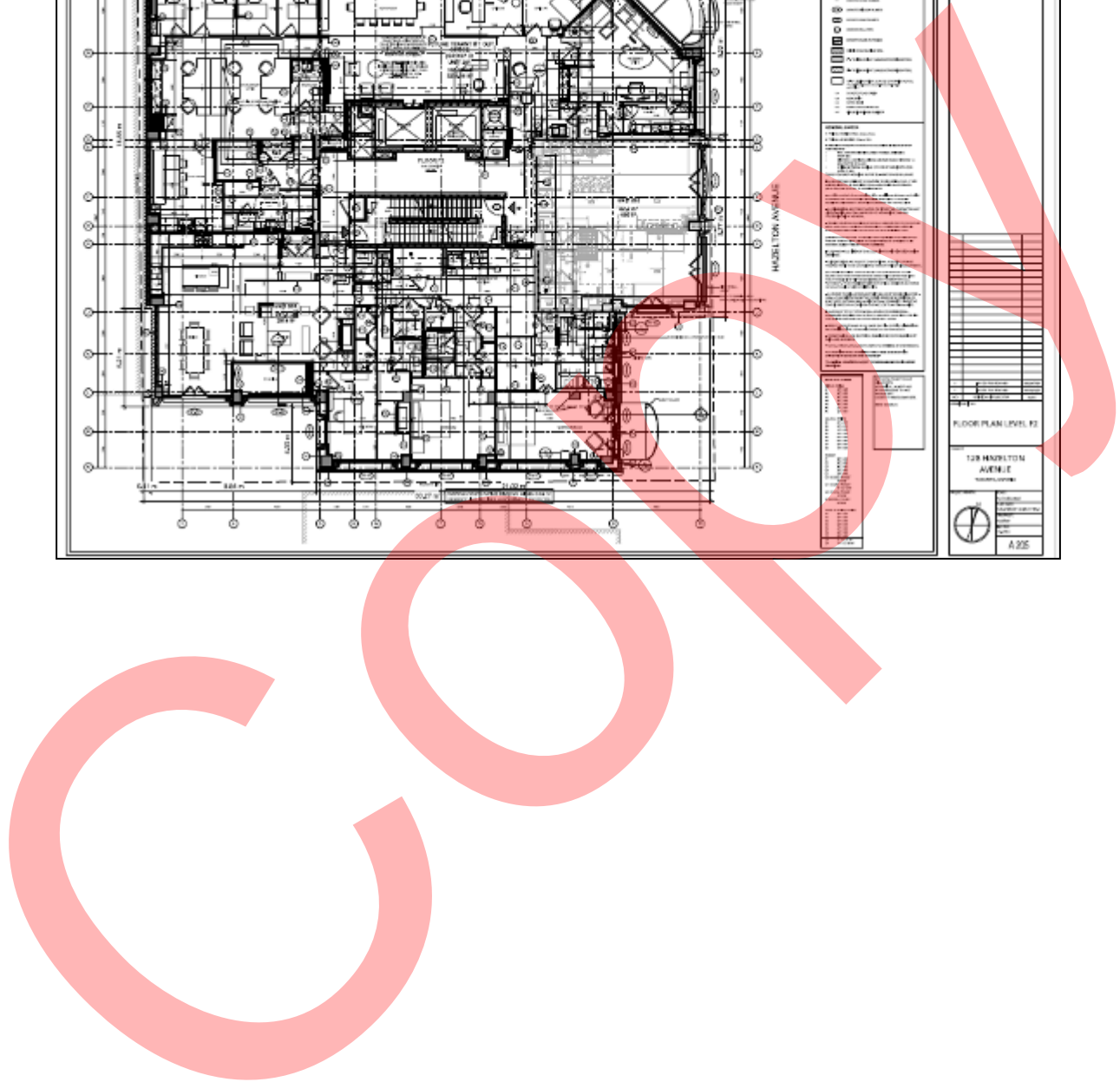
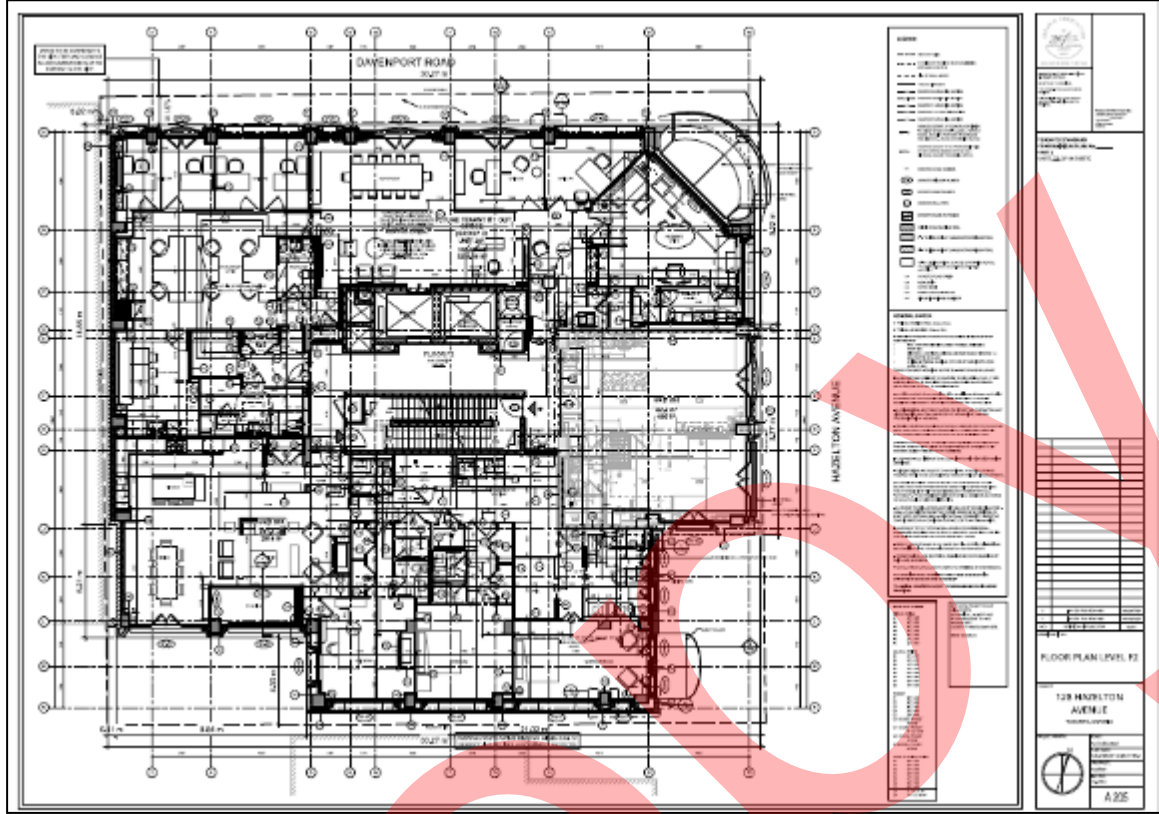
Overall, the property was well maintained and in good condition. See sampling of interior photographs on the following pages.

Mechanical and Structural Details

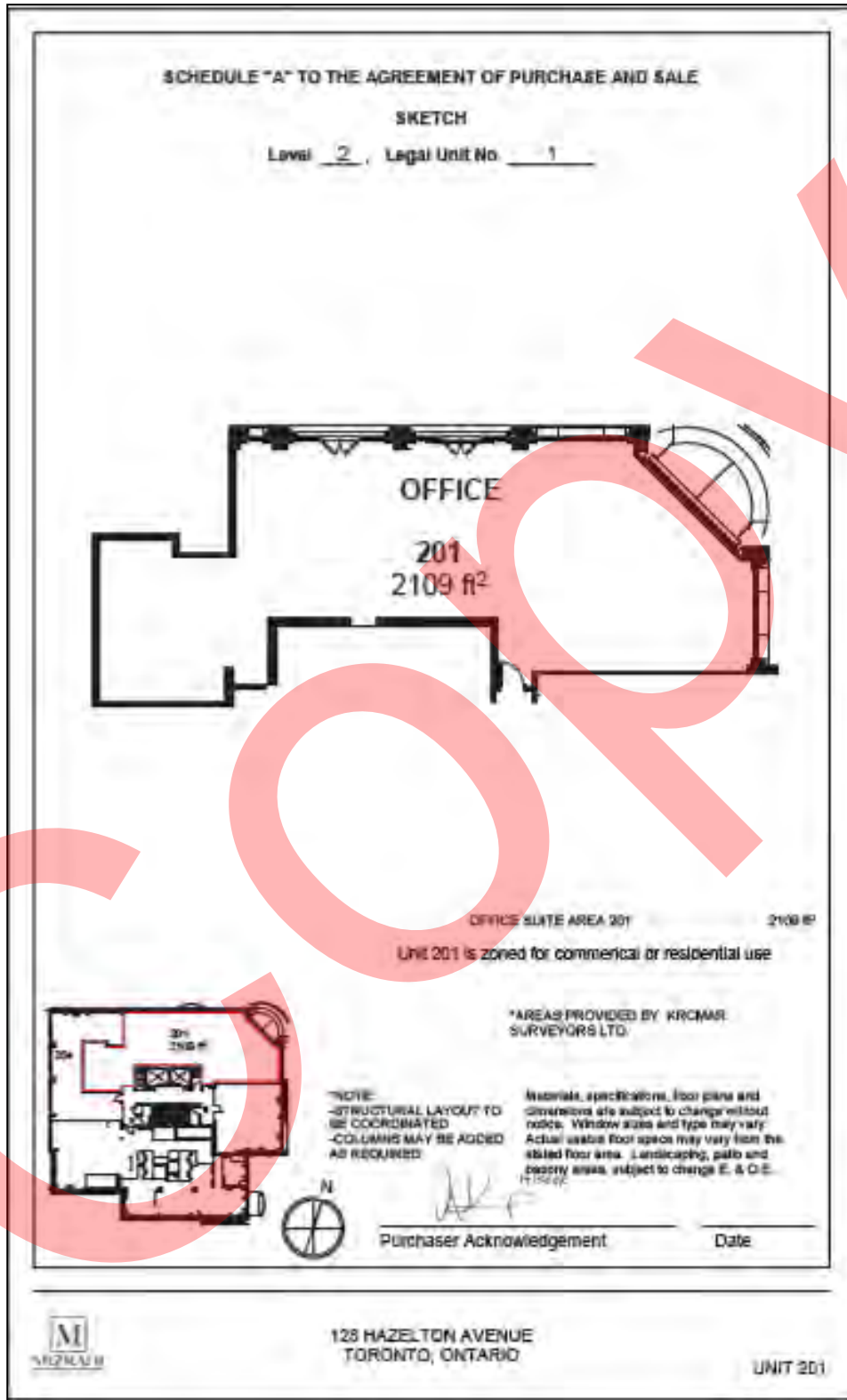
The following is a summary of the components of the subject building:

- Foundation : Concrete
- Structural : Poured Concrete
- Exterior Walls : Masonry, glass and concrete
- Heating & Cooling: Forced air heat and cooling
- Electrical : 200 amps
- Plumbing : Copper, ABS
- Emergency Items : Sprinkler system, exit signs, smoke alarms, fire rated doors, etc.

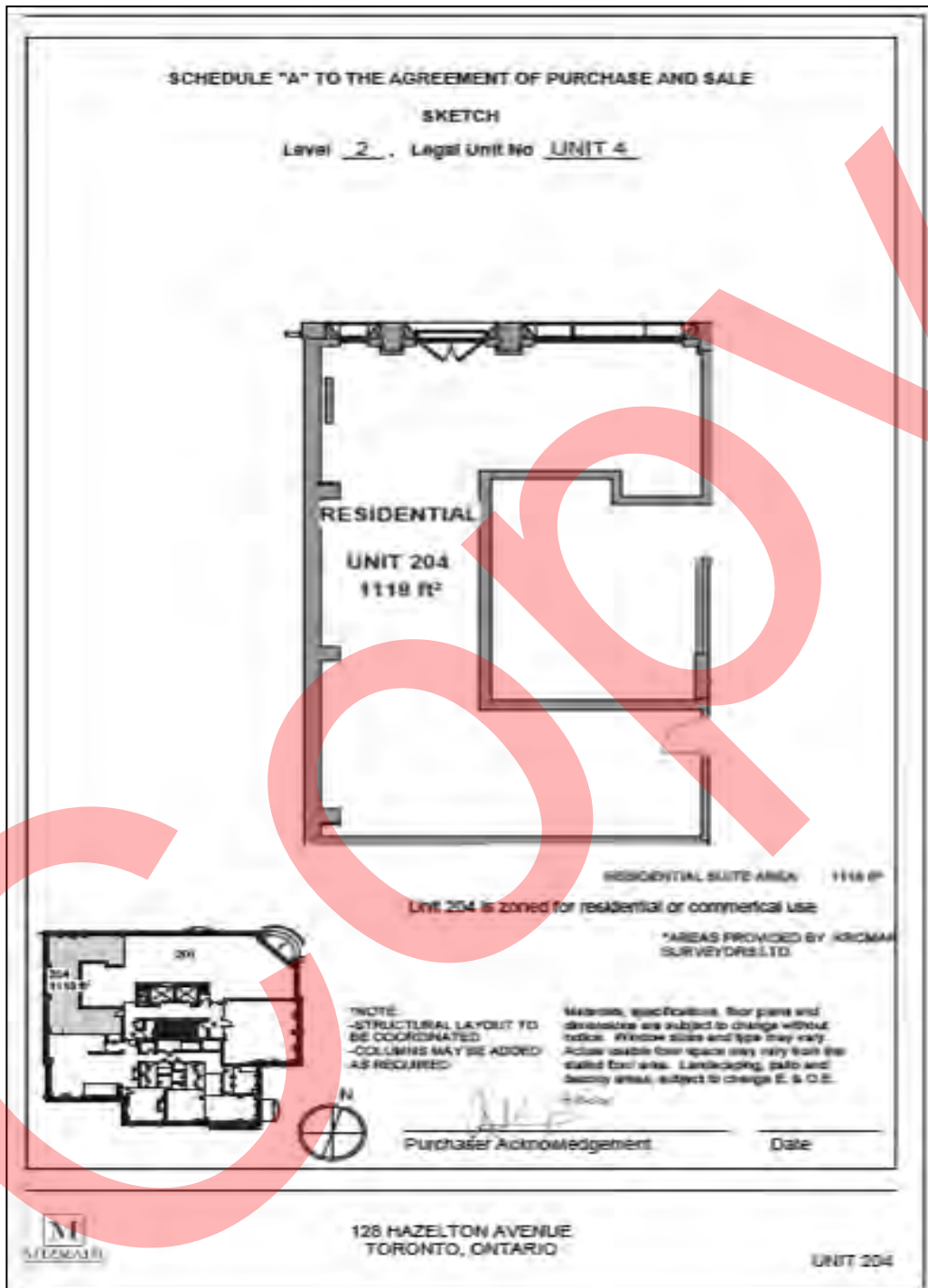
SECOND FLOOR PLAN



UNIT 201 PLAN



UNIT 204 PLAN



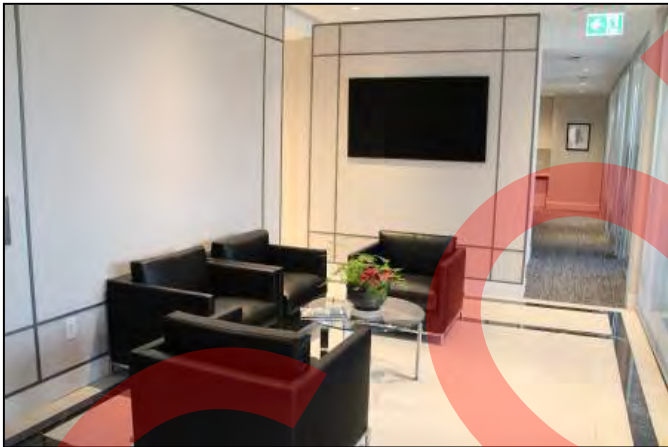
CONSTANTINE OFFICES



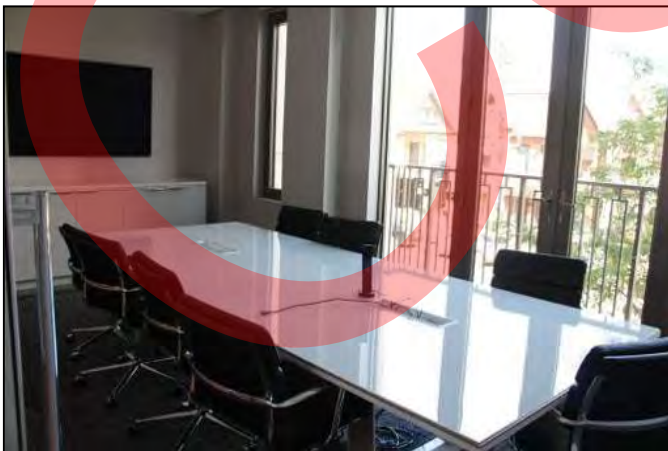
**INTERIOR PHOTOGRAPHS
128 HAZELTON AVENUE UNITS 201 AND 204
PHOTOGRAPHS INTERIOR**



Reception



Waiting Area



Conference/Meeting Room



Hoteling Area



Lunch Area



Hoteling Area



Private Office



Corner Office

CONFIDENTIAL

Highest and Best Use

Highest and best use is defined as, “The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible and that results in the highest value.⁸” It is the underlying foundation in estimating the value of vacant land or an improved property. By definition, the determination of highest and best use requires an existing or proposed use to pass four tests. The use must be:

- ◆ Legally permissible;
- ◆ Physically possible;
- ◆ Financially feasible; and
- ◆ Maximally productive.

According to CUSPAP 2024⁹, an opinion of the highest and best use of the Subject Property, both as vacant and as improved, must be developed if the property is improved.

AS IMPROVED

Continuation of the office related use, as permitted under the Zoning By-law

AS VACANT

If the property is vacant then only the highest and best use as vacant is required. If improved the analysis is based on an assumption of vacant land use. The subject property was developed in 2021 so it is likely that a similar development would be built today if the site was vacant.

Remaining Economic Life

Based on an economic life of 60 years and an effective age of 3 years, the remaining economic life of the subject property is 57 years

⁸ The Appraisal of Real Estate, Fourth Canadian Edition (2023), Chapter 17. Page 17.3

⁹ CUPAP 2022 3.35

Valuation

The valuation process is accomplished through specific steps. The number of steps depends on the nature of the appraisal assignment and the available data. The model provides a pattern that can be used in any appraisal assignment to perform market research and data analysis, to apply appraisal techniques, and to integrate the results of these activities into an opinion of defined value.

Research begins after the appraisal problem has been defined and the scope of work required to solve the problem has been identified. The analysis of data relevant to the problem starts with an investigation of trends observed at the market level. This examination helps the appraiser understand the interrelationships among the principles, forces, and factors that affect real property value in the specific market area.

Research also provides raw data from which the appraiser can extract quantitative information and other evidence of market trends. Such trends may include positive or negative percentage changes in property value over a number of years, and the number of employment opportunities available and their effect on the purchasing power of potential property users.

In assignments to develop an opinion of market value, the ultimate goal of the valuation process is a well-supported value conclusion that reflects all of the pertinent factors that influence the market value of the property being appraised. To achieve this goal, an appraiser studies a property from three different viewpoints, which are referred to as the approaches to value. The three approaches are described below.

- A. **The Cost Approach:** This approach involves the estimation of market value by adding the value of the land, as vacant, to the depreciated reproduction or replacement cost of the improvements located on the site;
- B. **The Income Approach:** This approach involves the estimation of the Market Value by capitalizing the net rental which the property can reasonably be expected to produce; and
- C. **The Direct Comparison Approach:** This approach involves the estimation of the Market Value through the comparison of current sales to the subject property.

Traditionally, specific appraisal techniques are applied within the three approaches to derive indications of real property value. One or more approaches to value may be used depending on their applicability to the particular appraisal assignment, the nature of the property, the needs of the client, or the available data.

Procedure

The subject property comprises a condominium unit in a condominium complex with common elements. Given the condominium nature of the property, the Cost Approach is not utilized in this analysis.

The Income and Direct Comparison Approach are the most accepted methods to estimate the market value of condominium units. For this assignment, they are solely relied upon by the appraiser and performed in the valuation of the subject property in the following text.

Income Approach

The Income Approach, often referred to as the Income Capitalization Method, is one of the three basic appraisal tools used by practitioners to estimate value. It has numerous variations with one objective which is to find the present worth of the future benefits. However, before demonstrating the use of the capitalization, it may be useful to examine the rationale and philosophy of the method as well as the basic premise.

Income Capitalization assumes that there is a relationship between income, specifically the net income that a property is capable of earning and its value at any given moment in time. The motive to invest in an income producing property is virtually always profit oriented which refer to financial benefits. These benefits may be in the form of an annual net income, an annual dividend and/or an increase in the capital asset or capital gain.

The acquisition of investments is a personal activity with each investor having his own priorities. In general terms, the basic objective may be described as maximizing income or benefits within the limits of perceived acceptable risks.

Apart from the cash flow and/or capital gain prospects, other benefits the investor may consider include prestige, amenities, tax implications such as tax shelters, etc. In order to estimate the market value of the subject property, the Overall Capitalization Rate technique has been utilized. This technique is described below:

Overall Capitalization Rate Technique

This technique assumes there is a relationship between the net income that a property is capable of producing and its value at any given moment in time.

Capitalization may be defined as the “process of converting into a present worth, a series of anticipated future annual instalments of net income by the application of a capitalization rate”.

Existing Occupancy

As of the date of valuation, the subject unit was occupied by an owner related company.

Valuation Procedure

Based on the occupancy, in order to estimate the market value, via the Income Approach, the following procedure was adopted:

- 1) Perform a search and estimate the market rent of the subject unit;
- 2) Calculate the annual income; and
- 3) Capitalize the annual income to estimate the market value via the Income Approach.

The valuation is performed in the following text.

128 Hazelton Avenue Unit 201 and 204, City of Toronto

RENTAL SURVEY

RENTAL SURVEY														
Index	Address	Unit	Level	Location	Monthly	Leased	TMI	Gross	Size	Use	Status	Date	MLS	Broker
1	30A Hazelton Avenue	Ground	Ground	Toronto		\$38.00	\$23.49	\$61.49	1,198	Office	Leased	4-Apr-24	C8088252	COLLIERS
2	101 Scollard St	Ground	Ground	Toronto		\$40.00	\$15.00	\$55.00	1,852	Office	Leased	19-Oct-23	C6899042	CBRE
3	30 Hazelton Ave	Lower	Lower	Toronto		\$60.00	\$26.55	\$86.55	1,372	Retail	New	LISTED	C9008599	CBRE
4	70 Yorkville Ave	M6-7	Main	Toronto				\$70.00	2,837	Office	New	1-Aug-24	C8969348	MLM
5	70 Yorkville Ave	M5	Main	Toronto				\$72.00	950	Office	New	17-Aug-23	C6671058	MLM
6	32 Scollard St	2.5 Sty		Toronto	\$5,000.00			\$37.50	1,600	Live Work	New		C8920038	FERROW
7	128.5 Cumberland St		3rd	Toronto	\$3,750.00	\$30.14	\$3.86	\$34.00	1,493	Office	Leased		C8165792	I PRO
Median						\$39.00	\$19.25	\$61.49						
Subject	128 Hazelton Ave	201	2nd	Toronto					2,109					
Subject	128 Hazelton Ave	204	2nd	Toronto					1,118					
Subject	128 Hazelton Ave	201 204	2nd	Toronto					3,227					

COLLIERS OFFICE MARKET SURVEY

Q1 2024 Colliers GTA Office Survey

Market	# Bldgs	Inventory	Vacant	Vacancy	Direct Available	Availability	Prop Sublet	Total Available	% Available	Absorption	Absorb %	New Supply	Construction	Wgt Avg Net	TMI	Wgt Avg Gross
Financial Core	112	43,062,202	5,510,000	12.80%	5,238,482	12.16%	21.10%	6,642,166	15.42%	984,852	2.3%	1,310,951	1,431,388	\$39.62	\$28.92	\$68.54
Downtown East	74	8,476,032	1,049,762	12.39%	732,300	8.64%	46.20%	1,361,493	16.06%	-60,936	-0.7%	0	817,197	\$31.94	\$25.35	\$57.29
Downtown North	139	22,322,885	1,996,394	8.94%	2,005,346	8.98%	16.90%	2,413,484	10.81%	159,146	0.7%	250,000	66,388	\$31.68	\$22.91	\$54.59
Downtown South	17	6,293,269	528,428	8.40%	414,230	6.58%	31.80%	607,120	9.65%	-88,645	-1.4%	0	0	\$30.96	\$25.38	\$56.34
Downtown West	156	19,793,109	2,867,309	14.49%	2,072,620	10.47%	35.00%	3,187,552	16.10%	-7,370	0.0%			\$33.58	\$21.89	\$55.47
Downtown Total	498	99,947,497	11,951,893	11.96%	10,462,978	13.60%	26.40%	14,211,815	30.40%	987,047	1.0%			\$36.02	\$25.99	\$62.01
Yonge Bloor	72	10,783,877	1,854,572	17.20%	1,226,371	11.37%	37.60%	1,965,421	18.23%	-203,147	-1.9%	0	24,077	\$29.26	\$24.54	\$53.80
Yonge St Clair	29	3,194,852	325,640	10.19%	255,032	31.80%	8.00%	373,961	11.71%	-65,570	-2.1%	0	0	\$27.44	\$24.67	\$52.11
Yonge Eglinton	68	6,962,681	1,090,094	15.66%	1,011,668	15.50%	12.20%	1,152,148	16.55%	-76,988	-1.1%	0	95,319	\$19.19	\$22.82	\$42.01
Toronto West	49	3,074,712	490,241	15.94%	466,149	15.16%	7.30%		0.00%	-46,867	-1.5%	0	0	\$37.03	\$17.02	\$54.05
Midtown	218	24,016,122	3,760,547	15.66%	2,959,220	13.20%	25.90%	3,491,530	29.40%	-392,572	-1.6%	0	119,396	\$26.93	\$22.23	\$49.16

CAPITALIZATION RATE SURVEY

Index	Sale Date	Transaction name	Municipality	Price	Size (sf)	BUILT	Price/sq.ft.	Cap rate (%)	NOI/sf
1	14-Mar-22	851 - 887 Queen Street East	Old Toronto	\$17,000,000	16,274	2017	\$1,045	4.4	\$46
2	11-Jan-23	Units 6 - 12, 1360 Yonge Street	Old Toronto	\$7,430,000	8,499	1998	\$874	5.0	\$44
3	13-Jul-23	563 Yonge Street	Old Toronto	\$8,000,000	5,184	1970	\$1,543	5.6	\$86
4	8-Sep-23	Units 3 - 5, 840 St. Clair Avenue West	Old Toronto	\$2,280,000	3,731	2022	\$611	6.0	\$37
5	6-Oct-23	60 Shuter Street	Old Toronto	\$5,700,000	5,223	2020	\$1,091	5.3	\$58
6	30-Apr-24	Units 5 - 9, 920 Yonge Street	Old Toronto	\$6,500,000	17,883	1975	\$363	6.0	\$22
7	10-May-24	1884 Queen Street East	Old Toronto	\$2,835,000	3,090	2021	\$917	6.9	\$63
MEDIAN								5.6	\$46

Market Rent

In order to estimate the market rent for the subject property, we performed a rental survey through the immediate and general area. The search revealed a sufficient sampling of leases which were summarized on the previous page:

Analysis

The leases and listings indicate dates from August 2023 to April 2024 and rates from \$30.00 to \$60.00 per square foot net with a median rent of **\$39.00** per square foot. They may reflect variances in unit size, quality of building, quality of improvements and street exposure.

The **Q1 2024 Collier Office Market** survey had the average rent at Yonge and Bloor at **\$29.26** per square foot with TMIs at **\$24.53** per square foot.

After careful consideration to the unit size, street exposure, current market conditions and with the knowledge the subject property is in good condition in a good quality complex, the estimated market rent of the subject property based on the median rent for the rental survey at **\$39.00** per square foot net which has been rounded to **\$40.00** per square foot net.

Potential Annual Income

Based on the preceding, the potential annual income is calculated on the basis of market rent as follows:

$$3,227 \text{ sq ft} \times \$40.00 \text{ per sq ft, net} = \$129,080 \text{ per annum}$$

Allowances and Operating Expenses

Vacancy and Credit Loss

In the valuation process, an allowance for vacancy and bad debt is deducted from the yearly income to reflect potential vacancy and rental losses over the investment period. Observations indicated that the majority of properties in the general vicinity of the subject property were occupied, without indications of extended vacancies. With knowledge of the good location, size and characteristics of the subject property, as well as the activity in the marketplace, as a whole, and based on **Colliers Q1 2024 Office Market Survey** with an availability rate of **11.37%** for nearby Yonge and Bloor office node, a vacancy allowance of **10%** was adopted for potential losses over the investment period.

Operating Expenses

The operating expenses include the fixed and variable expenses related to the day-to-day function of the property and typically include such items as: realty taxes, insurance, utilities. As previously determined, the market rent for the property was estimated on a "net" basis, under the assumption that the tenants pay a base rent plus the fixed expenses (TMI), as well as the utility consumption. Thus, the operating expenses are an obligation of the tenants. This being a commercial condominium, the unit is subject to condominium maintenance fees.

Net Operating Income

Based on the preceding, the stabilized net operating income is estimated on the following page:

Overall Capitalization Rate Technique (OCR)

The appraiser investigated the marketplace to locate commercial properties acquired for investment purposes. The sales in the following chart were analysed to estimate OCR for the subject property.

Analysis

The sales indicate capitalization rates from **4.4%** to **6.9%** and variances which may be attributed to several factors including: location, building age, condition, average income and tenant covenants. The median capitalization rate was **5.6%** and the median NOI/sf was **\$46**.

Conclusion

When estimating the capitalization rate, the appraiser scrutinized the analysis, as well as the location and current physical characteristics of the subject building. With consideration to the above, the estimated capitalization rate for the subject property is well served by an estimate from approximately 4.4% to 6.9%.

Having estimated the range, the appraiser considered that the subject property provides good physical characteristics and affords a location with high foot traffic and prime street exposure. Based on the preceding, an estimate of **5.00%** is reasonable for the subject property and adopted in the analysis. Therefore, the estimated market value of the subject property is calculated, via the Income Approach, as follows:

Therefore, the estimated market value of the subject property is calculated, via the Income Approach, as follows:

$$\frac{\text{Net Operating Income } \$116,280}{\text{Overall Capitalization Rate } 5.00\%} = \$2,325,000$$

Rounded to: **\$2,320,000**

Direct Capitalization Method

Potential Net Income:	3,227 sf x	\$40.00	\$/sf =	\$129,080
Less Vacancy		10%		\$12,908
Net Operating Income				\$116,172
Capitalization Rate				5.00%
Market Value				\$2,323,440
		\$719	Rounded	\$2,320,000

COMPARABLE SALES/LISTINGS

Index	Sale Date	Unit	Transaction name	Municipality	Price	Size (sf)	Built	Level	Use	Storeys	Price/sq.ft.
1	31-Mar-22	602	7 St. Thomas Street	Old Toronto	\$1,950,000	1,132	2016	Sixth	Office	9	\$1,723
2	2-May-22	306	7 St. Thomas Street	Old Toronto	\$2,100,000	1,427	2016	Third	Office	9	\$1,472
3	28-Jun-22	302	7 St. Thomas Street	Old Toronto	\$1,200,000	1,171	2016	Third	Office	9	\$1,025
4	30-Jun-22	207	7 St. Thomas Street	Old Toronto	\$2,100,000	1,427	2016	Second	Office	9	\$1,472
5	5-Jul-22	608	7 St. Thomas Street	Old Toronto	\$2,150,000	1,232	2016	Sixth	Office	9	\$1,745
6	30-Aug-22	301-302	1033 Bay Street	Old Toronto	\$1,600,000	1,514	1989	Third	Office	26	\$1,057
7	26-Sep-23	1	1033 Bay Street	Old Toronto	\$5,300,000	5,314	1989	Ground	Retail	26	\$997
8	27-Sep-22	309	7 St. Thomas Street	Old Toronto	\$2,750,000	1,189	2016	Third	Office	9	\$2,313
9	12-Dec-22	110-114	1 Yorkville Avenue	Old Toronto	\$5,494,877	1,599	2021	Ground	Office	58	\$3,436
10	3-Jan-23	205-209	1 Yorkville Avenue	Old Toronto	\$3,202,500	3,901	2021	Second	Office	58	\$821
11	Listing	101	130 Hazelton Avenue	Old Toronto	\$2,743,000	1,993	2022	Ground	tail/Offi	9	\$1,376
Median											\$1,424
Median	Index 7, 10	Similar Size	Office								\$909
Subject	201	128 Hazelton Avenue	Old Toronto		2,109	2022	Second	Office	9		
Subject	204	128 Hazelton Avenue	Old Toronto		1,118	2022	Second	Office	9		
Subject	201-204	128 Hazelton Avenue	Old Toronto		3,227	2022	Second	Office	9		

Direct Comparison Approach

This Approach employs the search, procurement and comparison of similar properties that have recently sold to the property under analysis. With knowledge that few properties are identical, adjustments must be made to compensate for differences between the comparable sale and the subject property.

The appraiser performed a search to locate the sale of office units to compare to the subject property. The search revealed a sufficient sampling of sales which are summarized in the chart on the prior page:

SALES REVIEW

Index 1: St Thomas Street, Unit 602

The property is improved with a 9 storey, multi-tenant office building. This sale pertains to one office unit within the building. The building is serviced by three elevators and contains 60 underground parking spaces. The unit contains a gross leasable area of approximately 1,132 square feet. It sold in March 2022 for \$1,950,000 or **\$1,723** per square foot. Because this involves office space with a smaller area a downward adjustment would be required.

Index 2: St Thomas Street, Unit 306

The property is improved with a 9 storey, multi-tenant office building. This sale pertains to one office unit within the building. The building is serviced by three elevators and contains 60 underground parking spaces. The unit contains a gross leasable area of approximately 1,427 square feet. It sold in March 2022 for \$2,100,000 or **\$1,472** per square foot. Because this involves office space with a smaller area a downward adjustment would be required.

Index 3: St Thomas Street, Unit 303

The property is improved with a 9 storey, multi-tenant office building. This sale pertains to one office unit within the building. The building is serviced by three elevators and contains 60 underground parking spaces. The unit contains a gross leasable area of approximately 1,171 square feet. It sold in June 2022 for \$1,200,000 or **\$1,025** per square foot. Because this involves office space with a smaller area a downward adjustment would be required.

Index 4: St Thomas Street, Unit 207

The property is improved with a 9 storey, multi-tenant office building. This sale pertains to one office unit within the building. The building is serviced by three elevators and contains 60 underground parking spaces. The unit contains a gross leasable area of approximately 1,427 square feet. It sold in June 2022 for \$2,100,000 of **\$1,472** per square foot. Because this involves office space with a smaller area a downward adjustment would be required.

Index 5: St Thomas Street, Unit 608

The property is improved with a 9 storey, multi-tenant office building. This sale pertains to one office unit within the building. The building is serviced by three elevators and contains 60 underground parking spaces. The unit contains a gross leasable area of approximately 1,232 square feet. It sold in July 2022 for \$2,150,000 or **\$1,745** per square foot. Because this involves office space with a smaller area a downward adjustment would be required.

Index 6: 1033 Bay Street, Unit 301, 302

The property is improved with a 26 storey, mixed-use condominium building with retail at grade. The transaction involved the sale of two condo units containing a total net rentable area of 1,514 square feet located on the third floor. It sold in August 2022 for \$1,600,000 or **\$1,057** per square foot. Because this involves office space with a smaller area than the subject a downward adjustment would be required.

Index 7: 1033 Bay Street, Unit 1

The property is improved with a 26 storey, mixed-use condominium building with retail at grade. The transaction involved the sale of one condo unit containing a total net rentable area of 5,314 square feet located on the ground floor. It sold in September 2023 for \$5,100,000 or **\$997** per square foot. This is considered as a good comparable because of its size and location. Because this involves commercial space with a similar area to the subject no adjustment would be required.

Index 8 St Thomas Street, Unit 309

The property is improved with a 9 storey, multi-tenant office building. This sale pertains to one office unit within the building. The building is serviced by three elevators and contains 60 underground parking spaces. The unit contains a gross leasable area of approximately 1,189 square feet. It sold in September 2022 for \$2,750,000 of **\$2,313** per square foot. Because this involves office space with a smaller area a downward adjustment would be required.

Index 9: 1 Yorkville Street, Units 110-114

The property is improved with a multi-tenant, 58 storey condominium building. This transaction involved the sale of five office units containing a total net rentable area of 1,599 square feet. It sold in December 2022 for \$5,494,877 or **\$1,599** per square foot. Because this involves ground floor retail space with a smaller area a downward adjustment would be required.

Index 10: 1 Yorkville Street, Units 205-209

The property is improved with a multi-tenant, 58 storey condominium building. This transaction involved the sale of five office units on the second floor containing a total net rentable area of 3,901 square feet. It sold in January 2023 for \$3,202,500 or **\$821** per square foot. Because this involves office space with a similar area it is considered as a very good comparable to the subject.

Index 11: 128 Hazelton Avenue, Unit 101

This space is listed under the receivership. The property is improved with the subject multi-tenant, 9 storey condominium building. This involves the CBRE listing of the ground floor commercial containing a total net rentable area of 1,993 square feet for \$2,743,000 or **\$1,376** per square foot. Because this involves space with a smaller area a downward adjustment would be required. Also, this space is ground floor space which generally commands a higher rental rate.

This space is being sold in unfinished as is condition and it is estimated that it will cost \$400,000 - \$500,000 to finish. For context The Rough Guide to costs estimates **office tenant finishing costs** as of January 2024 as follows:


TYPE	BUILDING CLASSIFICATION	\$/SF
OFFICE BUILDINGS SPECULATIVE	Two storeys - shell only	\$272.75
	shell + tenant fit-out	\$342.25
	Fit -out Costs	\$69.50

Source: **Rough Guide to Construction Costs January 2024**

Conclusions

The sales indicate unit rates ranging from \$821 to \$3,436 per square foot of unit area. When units on larger areas were utilized the best comparable are (**Index 7 and 10**) and the range narrows to **\$821 to \$997** per square foot. The median for these two was **\$909** per square foot. We have utilized a rate of **\$910** per square foot


Condo Index 1

index	1
	
Index	1
Unit	602
Address	7 St. Thomas Street
Location	Old Toronto
PIN	76617-0049,76617-0080
ROLL	190406858000649
YCC	2617
Sale Date	31-Mar-22
Price	\$1,950,000
Buyer	Norwich Power Holdings Inc.
Building Storeys	9
Date Built	2016
Unit Size	1,132
Level	Sixth
Use	Office
\$/Sf	\$1,723

Condo Index 2

index	2
	
Index	2
Unit	306
Address	7 St. Thomas Street
Location	Old Toronto
PIN	76617-0023
ROLL	190406858000623
YCC	2617
Sale Date	2-May-22
Price	\$2,100,000
Buyer	Tricon Capital Group Inc.
Building Storeys	9
Date Built	2016
Unit Size	1,427
Level	Third
Use	Office
\$/Sf	\$1,472

Condo Index 3

index	3
	
Index	3
Unit	302
Address	7 St. Thomas Street
Location	Old Toronto
PIN	76617-0019
ROLL	190406858000619
YCC	2617
Sale Date	28-Jun-22
Price	\$1,200,000
Buyer	Tricon Capital Group Inc.
Building Storeys	9
Date Built	2016
Unit Size	1,171
Level	Third
Use	Office
\$/Sf	\$1,025


Condo Index 4

index	4
	
Index	4
Unit	207
Address	7 St. Thomas Street
Location	Old Toronto
PIN	76617-0013,76617-0084,76617-
ROLL	190406858000613
YCC	2617
Sale Date	30-Jun-22
Price	\$2,100,000
Buyer	St. Thomas Surgical Holdings Inc.
Building Storeys	9
Date Built	2016
Unit Size	1,427
Level	Second
Use	Office
\$/Sf	\$1,472

Condo Index 5

index	5
	
Index	5
Unit	608
Address	7 St. Thomas Street
Location	Old Toronto
PIN	76617-0055,76617-0095
ROLL	190406858000655
YCC	2617
Sale Date	5-Jul-22
Price	\$2,150,000
Buyer	1000239789 Ontario Inc.
Building Storeys	9
Date Built	2016
Unit Size	1,232
Level	Sixth
Use	Office
\$/sf	\$1,745

Condo Index 6

index	6
	
Index	6
Unit	301-302
Address	1033 Bay Street
Location	Old Toronto
PIN	11848-0070,11848-0071
ROLL	190406836001031/1904068360010
YCC	848
Sale Date	30-Aug-22
Price	\$1,600,000
Buyer	Newground Corporation
Building Storeys	26
Date Built	1989
Unit Size	1,514
Level	Third
Use	Office
\$/sf	\$1,057

Condo Index 7

index	7
	
Index	7
Unit	1
Address	1033 Bay Street
Location	Old Toronto
PIN	11848-0030,11848-0031,11848-
ROLL	190406836000830
YCC	848
Sale Date	26-Sep-23
Price	\$5,300,000
Buyer	2661072 ONTARIO INC
Building Storeys	26
Date Built	1989
Unit Size	5,314
Level	Ground
Use	Retail
\$/sf	\$997

Condo Index 8

index	8
	
Index	8
Unit	309
Address	7 St. Thomas Street
Location	Old Toronto
PIN	76617-0026,76617-0088
ROLL	190406858000626
YCC	2617
Sale Date	27-Sep-22
Price	\$2,750,000
Buyer	Anama Inc.
Building Storeys	9
Date Built	2016
Unit Size	1,189
Level	Third
Use	Office
\$/sf	\$2,313

Condo Index 9

index	9
	
Index	9
Unit	110-114
Address	1 Yorkville Avenue
Location	Old Toronto
PIN	76933-0010,76933-0011,76933-
ROLL	190405202001528-
YCC	2933
Sale Date	12-Dec-22
Price	\$5,494,877
Buyer	Executive Health Centre
Building Storeys	58
Date Built	2021
Unit Size	1,599
Level	Ground
Use	Office
\$/sf	\$3,436

Condo Index 10

index	10
	
Index	10
Unit	205-209
Address	1 Yorkville Avenue
Location	Old Toronto
PIN	76933-0019, 76933-0020, 76933-
ROLL	190405202001537-190405202001541
YCC	2933
Sale Date	3-Jan-23
Price	\$3,202,500
Buyer	2611680 Ontario Inc.
Building Storeys	58
Date Built	2021
Unit Size	3,901
Level	Second
Use	Office
\$/Sf	\$821

Condo index 11

index	11
	
Index	11
Unit	101
Address	130 Hazelton Avenue
Location	Old Toronto
Legal	PLAN 687E PT LOT 1 PLAN 411 PT
ROLL	190405225000104
YCC	2967
Sale Date	Listing
Price	\$2,743,000
Broker	CBRE
Building Storeys	9
Date Built	2022
Unit Size	1,963
Level	Ground
Use	Retail/Office
\$/Sf	\$1,397

Subject

index	Subject
	
Index	Subject
Unit	201-204
Address	128 Hazelton Avenue
Location	Old Toronto
PIN	76967-0001/76967-0004
ROLL	190405225000106/0
YCC	2967
Sale Date	0-Jan-00
Price	
Owner	MIZRAHI (128 HAZELTON) INC
Building Storeys	9
Date Built	2022
Unit Size	3,227
Level	Second
Use	Office
\$/Sf	\$0

AMENITIES

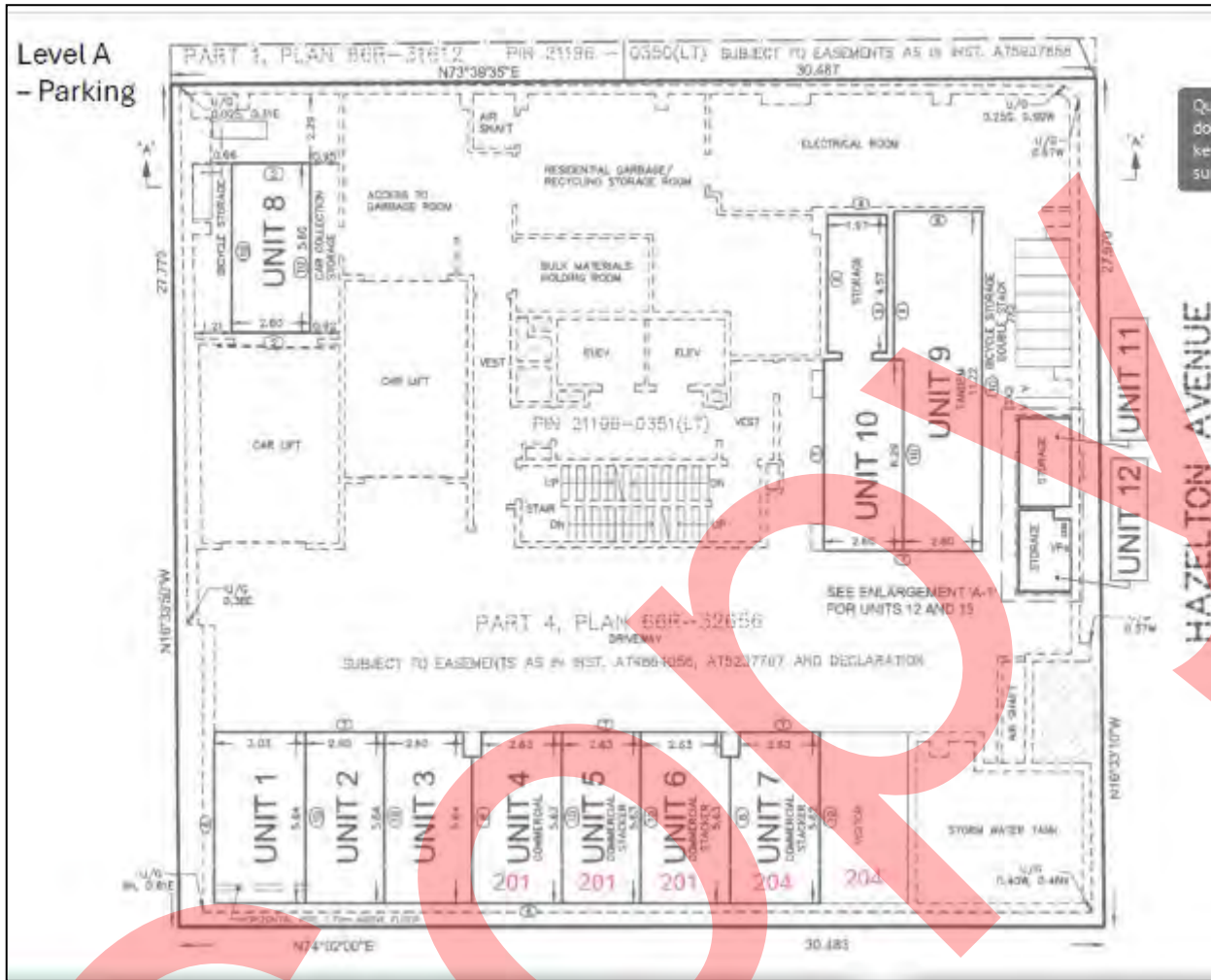
Besides units 201 and 204 Constantine also has 4 parking spaces and 2 lockers as indicated on the following page. In the original purchase and sale agreement these were price as follows:

Amenity	Units	\$/Unit	Value
Parking Spaces	4	\$100,000	\$400,000
Lockers	2	\$50,000	\$100,000
Total Amenities			\$500,000

In our opinion these amenities would still have retained their value.

COPY

PARKING AND STORAGE LOCKERS



CONCLUSION

Based on the analysis, the predominance of the data indicates the market value of the subject property is well served by an estimate from approximately \$821 to \$1,057 per square foot of unit area with a median rate of \$909 per square foot for the best comparable. We have utilized a rate of **\$910** per square foot.

In conclusion, the estimated market value of the subject property is calculated, via the Direct Comparison Approach, as of July 19, 2024 as follows:

Unit	Address	Unit Size		\$/Sf		Value
201-204	128 Hazelton Avenue	3,227	sq ft x	\$910	\$/sf =	\$2,936,570
					Rounded	\$2,940,000

Correlation of Market Value Estimates

Condominium Units 201 and 204

Units 201 and 204	
Approach	Value
Income Approach	\$2,320,000
Direct Comparison	\$2,940,000
Average	\$2,630,000
Market Value	\$2,700,000

The **Income Approach** reflects the market value of the subject property on the merits of the income generating capabilities and investment quality. This results from the dominance of owner-user acquisitions that are driven by low interest rates and the business related function of the real estate, as opposed to the “rate of return” which is the primary objective of the investor. This opinion, coupled with the fact that condominiums acquired to satisfy investment objectives represent a minor portion of the inventory, as a whole, renders the Income Approach a subordinate indicator of market value.

The **Direct Comparison Approach** is widely recognized as the primary technique, in the valuation of ICI condominium properties. Its reliability is contingent upon the availability and quality of the market data. In this analysis, there was a sufficient sampling of sales to compare to the subject property. Overall, this Approach is the primary indicator of market value.

In conclusion, the equal weight was given to both the Income and the Direct Comparison Approach. Therefore, the estimated market value conclusion of the subject property is **\$2,700,000**.

Amenity Value

The **Direct Comparison Approach** is widely recognized as the primary technique, in the valuation of ICI condominium amenities such as parking and storage lockers. Its reliability is contingent upon the availability and quality of the market data. In this analysis, there was a sufficient sampling of sales to compare to the subject property. Overall, this Approach is the primary indicator of market value.

In conclusion, the entire weight for the amenities was given to the Direct Comparison Approach. Therefore, the estimated market value conclusion of the parking space and lockers amenities is **\$500,000**.

Final Estimate of Value

Based on the investigation and all other factors which may affect value, it is the appraiser's opinion that the environmentally unimpaired, market value of the Condominium Tenure of the subject property, as of July 19, 2024, is:

Condominium Unit 201 and 204 Value

**Two Million Seven Hundred Thousand Dollars
(\$2,700,000)**

Amenity Value

Based on the investigation and all other factors which may affect value, it is the appraiser's opinion that the environmentally unimpaired, market value of the Condominium Tenure of the 4 parking spaces and 2 lockers property, as of July 19, 2024, is:

**Five Hundred Thousand Dollars
(\$500,000)**

Reasonable Exposure Time

The sales studied and a wider sampling of data indicates marketing periods from approximately 4 to 145 days. Based on the market evidence and physical characteristics of the subject building, it appears that if the subject property had recently been listed for sale in competition with the sales studied, its reasonable exposure time may have ranged from about 30 to 90 days, predicated on a competitive list price.

Reasonable Marketing Time

As with the estimate of reasonable exposure time, the sales studied and a wider sampling of data indicates marketing periods from approximately 4 to 145 days. Based on the market evidence and physical characteristics of the subject building, it appears that if the subject property had recently been listed for sale in competition with the sales studied, its reasonable exposure time may have ranged from about 30 to 90 days, predicated on a competitive list price. The receivership exercise may mean greater due diligence on the part of the monitor KPMG.

Certification

Re: 128 Hazelton Avenue, Unit Nos. 201 and 204, City of Toronto

I John T. Glen, certify that:

1. The statements of fact contained in this report are true and correct;
2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and is my impartial and unbiased professional analyses, opinions and conclusions;
3. I have no past, present or prospective interest in the property that is the subject of this report and no personal and/or professional interest or conflict with respect to the parties involved with this assignment.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment;
5. My engagement in and compensation is not contingent upon developing or reporting predetermined results, the amount of value estimate, a conclusion favoring the client, or the occurrence of a subsequent event.
6. My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the CUSPAP.
7. I have the knowledge and experience to complete this assignment competently, and where applicable this report is co-signed in compliance with CUSPAP;
8. Except as herein disclosed, no one has provided significant professional assistance to the person(s) signing this report;
9. As of the date of this report the undersigned has fulfilled the requirements of the AIC's Continuing Professional Development Program;
10. The undersigned is (are all) members in good standing of the Appraisal Institute of Canada.

Property Identification

Address : 128 Hazelton Avenue Unit 201 and 204
 City : Toronto
 Province : Ontario
 Postal Code : M5R 1J3
 Property Identification Number (PIN) : 76967-0001/76967-0004

Based upon the data, analyses and conclusions contained herein, the market value of the condominium tenure interest in the property described as at the effective date of July 19, 2024, is estimated at:

Condominium Units 201 and 204

**Two Million Seven Hundred Thousand Dollars
 (\$2,700,000)**

Amenity Value

In addition to the above the 4 parking spaces and 2 lockers would add
**Five Hundred Thousand Dollars
 (\$500,000)**

Certification (continued)

As set out elsewhere in this report, this report is subject to certain assumptions and limiting conditions, the verification of which is outside the scope of this report.

Respectfully Submitted,

Simon & Associates Ltd.

APPRAISER:

Signature: _____
John T. Glen, MA, AACI, FRICS, MIMA

John D Shaw Papp, AACI
Reviewer

Membership #: 135000

Membership # 053730

Date of Report/Date Signed:
July 26, 2024

Personally inspected the
Subject property: Yes

Date Of Inspection: (Exterior/Interior):
July 19, 2024

Addenda

Assumptions and Limiting Conditions.....Addendum A

Receivership OrderAddendum B

Qualifications of AppraiserAddendum C

COPY

Addendum A
Assumptions and Limiting Conditions

COPY

Assumptions and Limiting Conditions



MANDATORY CLAUSES

Appraisal Institute of Canada ©- Effective December, 2018

ASSUMPTIONS, LIMITING CONDITIONS, DISCLAIMERS AND LIMITATIONS OF LIABILITY

The certification that appears in this report is subject to compliance with the Personal Information and Electronics Documents Act (PIPEDA), Canadian Uniform Standards of Professional Appraisal Practice (“CUSPAP”) and the following conditions:

1. This report is prepared only for the client and authorized users specifically identified in this report and only for the specific use identified herein. No other person may rely on this report or any part of this report without first obtaining consent from the client and written authorization from the authors. Liability is expressly denied to any other person and, accordingly, no responsibility is accepted for any damage suffered by any other person as a result of decisions made or actions taken based on this report. Liability is expressly denied for any unauthorized user or for anyone who uses this report for any use not specifically identified in this report. Payment of the appraisal fee has no effect on liability. Reliance on this report without authorization or for an unauthorized use is unreasonable.
2. Because market conditions, including economic, social and political factors, may change rapidly and, on occasion, without warning, this report cannot be relied upon as of any date other than the effective date specified in this report unless specifically authorized by the author(s).
3. The author will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The property is appraised on the basis of it being under responsible ownership. No registry office search has been performed and the author assumes that the title is good and marketable and free and clear of all encumbrances. Matters of a legal nature, including confirming who holds legal title to the appraised property or any portion of the appraised property, are outside the scope of work and expertise of the appraiser. Any information regarding the identity of a property’s owner or identifying the property owned by the listed client and/or applicant provided by the appraiser is for informational purposes only and any reliance on such information is unreasonable. Any information provided by the appraiser does not constitute any title confirmation. Any information provided does not negate the need to retain a real estate lawyer, surveyor or other appropriate experts to verify matters of ownership and/or title.
4. Verification of compliance with governmental regulations, bylaws or statutes is outside the scope of work and expertise of the appraiser. Any information provided by the appraiser is for informational purposes only and any reliance is unreasonable. Any information provided by the appraiser does not negate the need to retain an appropriately qualified professional to determine government regulation compliance.

5. No survey of the property has been made. Any sketch in this report shows approximate dimensions and is included only to assist the reader of this report in visualizing the property. It is unreasonable to rely on this report as an alternative to a survey, and an accredited surveyor ought to be retained for such matters.
6. This report is completed on the basis that testimony or appearance in court concerning this report is not required unless specific arrangements to do so have been made beforehand. Such arrangements will include, but not necessarily be limited to: adequate time to review the report and related data, and the provision of appropriate compensation.
7. Unless otherwise stated in this report, the author has no knowledge of any hidden or unapparent conditions (including, but not limited to: its soils, physical structure, mechanical or other operating systems, foundation, etc.) of/on the subject property or of/on a neighbouring property that could affect the value of the subject property. It has been assumed that there are no such conditions. Any such conditions that were visibly apparent at the time of inspection or that became apparent during the normal research involved in completing the report have been noted in the report. This report should not be construed as an environmental audit or detailed property condition report, as such reporting is beyond the scope of this report and/or the qualifications of the author. The author makes no guarantees or warranties, express or implied, regarding the condition of the property, and will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. The bearing capacity of the soil is assumed to be adequate.
8. The author is not qualified to comment on detrimental environmental, chemical or biological conditions that may affect the market value of the property appraised, including but not limited to pollution or contamination of land, buildings, water, groundwater or air which may include but are not limited to moulds and mildews or the conditions that may give rise to either. Any such conditions that were visibly apparent at the time of inspection or that became apparent during the normal research involved in completing the report have been noted in the report. It is an assumption of this report that the property complies with all regulatory requirements concerning environmental, chemical and biological matters, and it is assumed that the property is free of any detrimental environmental, chemical legal and biological conditions that may affect the market value of the property appraised. If a party relying on this report requires information about or an assessment of detrimental environmental, chemical or biological conditions that may impact the value conclusion herein, that party is advised to retain an expert qualified in such matters. The author expressly denies any legal liability related to the effect of detrimental environmental, chemical or biological matters on the market value of the property.
9. The analyses set out in this report relied on written and verbal information obtained from a variety of sources the author considered reliable. Unless otherwise stated herein, the author did not verify client-supplied information, which the author believed to be correct.
10. The term "inspection" refers to observation only as defined by CUSPAP and reporting of the general material finishing and conditions observed for the purposes of a standard appraisal inspection. The inspection scope of work includes the identification of marketable characteristics/amenities offered for comparison and valuation purposes only.

11. The opinions of value and other conclusions contained herein assume satisfactory completion of any work remaining to be completed in a good and workmanlike manner. Further inspection may be required to confirm completion of such work. The author has not confirmed that all mandatory building inspections have been completed to date, nor has the availability/issuance of an occupancy permit been confirmed. The author has not evaluated the quality of construction, workmanship or materials. It should be clearly understood that this visual inspection does not imply compliance with any building code requirements as this is beyond the professional expertise of the author.
12. The contents of this report are confidential and will not be disclosed by the author to any party except as provided for by the provisions of the CUSPAP and/or when properly entered into evidence of a duly qualified judicial or quasi-judicial body. The author acknowledges that the information collected herein is personal and confidential and shall not use or disclose the contents of this report except as provided for in the provisions of the CUSPAP and in accordance with the author's privacy policy. The client agrees that in accepting this report, it shall maintain the confidentiality and privacy of any personal information contained herein and shall comply in all material respects with the contents of the author's privacy policy and in accordance with the PIPEDA.
13. The author has agreed to enter into the assignment as requested by the client named in this report for the use specified by the client, which is stated in this report. The client has agreed that the performance of this report and the format are appropriate for the intended use.
14. This report, its content and all attachments/addendums and their content are the property of the author. The client, authorized users and any appraisal facilitator are prohibited, strictly forbidden, and no permission is expressly or implicitly granted or deemed to be granted, to modify, alter, merge, publish (in whole or in part) screen scrape, database scrape, exploit, reproduce, decompile, reassemble or participate in any other activity intended to separate, collect, store, reorganize, scan, copy, manipulate electronically, digitally, manually or by any other means whatsoever this appraisal report, addendum, all attachments and the data contained within for any commercial, or other, use.
15. If transmitted electronically, this report will have been digitally signed and secured with personal passwords to lock the appraisal file. Due to the possibility of digital modification, only originally signed reports and those reports sent directly by the author can be reasonably relied upon.
16. This report form is the property of the Appraisal Institute of Canada (AIC) and for use only by AIC members in good standing. Use by any other person is a violation of AIC copyright.
17. Where the intended use of this report is for financing or mortgage lending or mortgage insurance, it is a condition of reliance on this report that the authorized user has or will conduct lending, underwriting and insurance underwriting and rigorous due diligence in accordance with the standards of a reasonable and prudent lender or insurer, including but not limited to ensuring the borrower's demonstrated willingness and capacity to service his/her debt obligations on a timely basis, and to conduct loan underwriting or insuring due diligence similar to the standards set out by the Office of the Superintendent of Financial Institutions (OSFI), even when not otherwise required by law. Liability is expressly denied to those that do not meet this condition. Any reliance on this report without satisfaction of this condition is unreasonable.

18. No investigation has been undertaken with the local zoning office, the fire department, the building inspector, the health department or any other government regulatory agency unless such investigations are expressly represented to have been made in this report. The subject property must comply with such government regulations and, if it does not comply, its non-compliance may affect market value. To be certain of compliance, further investigations may be necessary.
19. Neither possession of this report nor a copy carries with it the right of publication. All copyright is reserved to the author and is considered confidential by the author and his client. It shall not be disclosed, quoted from or referred to, in whole or in part, or published in any manner, without the express written consent of the appraiser; subject only to confidential review by the Appraisal Institute.
20. The compensation for services rendered in this report does not include a fee for court preparation or court appearance, which must be negotiated separately. However, neither this nor any other of these limiting conditions is an attempt to limit the use that might be made of this report should it properly become evidence in a judicial body which will decide the use of the report which best serves the administration of justice

Addendum B

Receivership

Electronically filed / Déposé par voie électronique: 24-Jun-2024
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : CV-24-00715321-00CL



Court File No.: CV-24-715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE
JUSTICE W.D. BLACK

FRIDAY, THE 21ST DAY
OF JUNE, 2024

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

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

**ORDER
(RETAIL APS SALE PROCESS)**

THIS MOTION, made by KSV Restructuring Inc. ("KSV"), in its capacity as the Court-appointed receiver and manager (in such capacity, the "Receiver") of a) certain condominium units located at 128 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("Hazelton") and Mizrahi 128 Hazelton Retail Inc. ("Retail", together with Hazelton, the "Debtors"), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof (collectively, the "Property"), for an Order, among other things, approving a sale process was heard this day at 330 University Ave, Toronto, Ontario.

ON READING the Motion Record in respect of this motion including the First Report of the Receiver dated June 14, 2024 (the "First Report"), filed;

AND UPON hearing the submissions of counsel for the Receiver, counsel for Constantine Enterprises Inc. ("CEI"), and such other counsel who were present, no one else appearing although duly served as appears from the affidavits of service of Katie Parent sworn June 14 and June 18, 2024, filed.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the First Report.

RETAIL APS SALE PROCESS

3. **THIS COURT ORDERS** that the Retail APS Sale Process is hereby approved and the Receiver is hereby authorized to implement the Retail APS Sale Process pursuant to the terms thereof. The Receiver is hereby authorized to perform all things reasonably necessary to carry out the Retail APS Sale Process.
4. **THIS COURT ORDERS** that the Receiver shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the Retail APS Sale Process, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or willful misconduct of the Receiver in performing its obligations under the Retail APS Sale Process, as determined by this Court.

STALKING HORSE APA

5. **THIS COURT ORDERS** that the agreement of purchase and sale dated as of June 14, 2024 (the "Stalking Horse APA") between the Receiver and CEI (the "Stalking Horse APA") is hereby approved solely as the stalking horse bid in the Retail APS Sale Process, provided that, nothing herein approves: (i) the acceptance and/or execution of the Stalking Horse APA by the Receiver; or (ii) the sale and the vesting of any Property to the Stalking Horse Bidder pursuant to the Stalking Horse APA, and the approval and acceptance and execution of the Stalking Horse APA and/or any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court.

GENERAL

6. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Receiver, and its agents, in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, in each case as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date it is made without any need for entry and/or filing.



Electronically served / Parvenu par voie électronique: 20-11-2024
Tribunal supérieur de la justice / Cours supérieure de justice

Court File No./N° du dossier du greffe : CV-24-00715321-00CL

CONSTANTINE ENTERPRISES INC. -and-
Applicant:

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.
Respondents

Court File No.: CV-24-715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

RETAIL APS SALE PROCESS
APPROVAL ORDER

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000, P.O. Box 53
Toronto, ON M5K 1E7

Jennifer Stam, LSO#: 46735J
Tel: 416.202.8707
jennifer.stam@nortonrosefulbright.com

Lawyers for the Receiver

COPY

**Addendum C
Qualifications of Appraiser**

John T Glen, MA, AACI, FRICS, MIMA Senior Appraisal Consultant

EDUCATION: Masters Degree in Geography, University of Western Ontario 1970.

MIMA, Institute of Municipal Assessors 1975

AACI, Appraisal Institute of Canada Designation 1993

FRICS, Royal Institution of Chartered Surveyors 2008

PROFESSIONAL EXPERIENCE

Involvement in consulting and valuation of commercial and industrial real estate began in 1970 and spans both the public and private sectors. This includes both single and portfolio real property appraisal experience in an international context.

- | | |
|---------------------------------|---|
| 2019 | Simon & Associates, Senior Appraiser |
| 2018-Jan 2024 | Ridley & Associates, Senior Appraiser |
| 2015-Sep 2019 | Equitable Values Inc. Director of Research and Valuation |
| 1999-Present | President JTG Real Estate Advisory Services Inc. |
| 1994-1996,
1999-2014 | Associated with AEC International specializing in valuation of real property for private and government clients. Extensive litigation experience in tribunals across Canada in market valuation for property assessment, highest and best use analysis, the evaluation of CAMA models and environmental impairment. |
| 1985-Present | Course Director at the York University Department of Administrative Studies teaching four real estate courses. He has lectured at various appraisal and assessment conferences in the U.S. and Canada and has published articles on real estate including development, environmental and property taxation. |
| 1997-1998 | Served as the Director of Valuation and Consulting for international real estate consulting firm Jones Lang LaSalle Canada and focused on portfolio valuation, property tax and strategic real estate advisory services to institutions Pension Funds, Real Estate Corporations and REITs. Experience covers North America, Europe and the Far East and encompasses a wide variety of property types. Specialized in portfolio valuation. |
| 1990-1993 | Joined the international real estate consulting firm Drivers Jonas, concentrating on real estate advisory to institutions, pension funds, developers and lenders in Canadian and U.S. urban markets. |
| 1985-1990 | Senior consultant with the appraisal division of Toronto based Royal LePage. |

1970-1984 10 years in the public sector acting as the Commercial Property Assessment Supervisor for Metropolitan Toronto, followed by 5 years in the City of New York as Real Property Valuation Director for Commercial, Industrial, and Multi-Residential Properties. Experience with development and training in CAMA or computer assisted mass appraisal through the IAAO and Lincoln Land Institute for commercial, industrial and multi-residential properties.

MEMBERSHIPS:

- Appraisal Institute of Canada
- Royal Institution of Chartered Surveyors
- The Institute of Municipal Assessors
- Associate of the Appraisal Institute (U.S.).

COMMITTEES:

2008 Professional Development & Education Committee,
Ontario Association, Appraisal Institute of Canada

2014-2017 Vice-President Toronto-Buffalo Chapter US Appraisal Institute

2014-2015 Appraisal Foundation SME Panel The Collection and Verification of Non-Residential Sales Data used in the Sales Comparison Approach.

Developed and Conducted Seminars on Mass Appraisal Topics

Lincoln Institute of Land Policy

- Mass Appraisal Techniques for Apartments, Commercial and Industrial Property
- Automated Valuation Models for Non-Residential Property

IAAO

- Mass Appraisal Techniques for Apartments, Commercial and Industrial Property
- Automated Valuation Models for Non-Residential Property

Seminar Presentation on the Valuation of Contaminated Property

- | | |
|--|------|
| • Ontario Expropriation Association | 1995 |
| • Ontario Institute of Municipal Assessors | 2001 |
| • Alberta Municipal Government Board | 2002 |

Seminar Presentation and Training for Income Properties

- | | |
|----------------------------------|------|
| • City of Winnipeg Assessors | 2001 |
| • Manitoba Assessors Association | 2002 |

Developed Mass Appraisal Training Material for the following type of properties:

- Office Buildings,
- Hotels,
- Shopping Centres,
- Commercial Industrial Land
- Airports,
- Universities,

- Senior Care Facilities,
- Industrial,
- Recreational Facilities,
- Golf Courses
- Marinas and Yacht Clubs
- Apartments
- Condominiums
- Casinos, Racinos
- Machinery and Equipment

Lectured at the Machinery and Equipment Conferences

- Kuala Lumpur, Malaysia 2001
- Sydney, Australia 2003

Seminar Presentation and Training for Hotel Valuation

- Manitoba Assessors Association 2002
- Alberta Municipal Government Board 2003
- Alberta Municipal Government Board 2004
- International Property Tax Institute Barbados 2008

Airport Valuation and Training

- Toronto International Airport Valuation 1997
- Winnipeg Airport Valuation 2001
- Calgary Airport Valuation Training 2002

Seminar Presentation on Commercial Land Valuation

- Ontario Institute of Municipal Assessors 1997

1st Mass Appraisal Symposium, IPTI Vancouver,

- Understanding Real Estate Portfolio Sales Feb 2006

2nd Mass Appraisal Symposium, IPTI Toronto,

- Sales Verification and Analysis May 2007

3rd Mass Appraisal Symposium, IPTI Ottawa,

- Resort Valuation May 2008

International Property Tax Institute, Barbados

- Resort Valuation Seminar April 2008

Mass Appraisal Symposium, IPTI Vancouver,

- Non-Residential Markets North America 2011 Sep 2011

Critical Analysis for Real Estate

- Ontario Association Appraisal Institute of Canada May 2011

Appraisal Institute of Canada Conference St John's

- Deciphering REIT Sales Transactions June 2008

Appraisal Institute of Canada Conference Moncton

- Non-Residential Markets Canada 2011 June 2011

**Institute of Municipal Assessors/
International Property Tax Institute**

- Theory and Practice of the Income Approach:
- Valuation Challenges with Ad Valorem Assessments

March 2012
May 2012
June 2012
January 2013

- Sales Comparison and Analysis of Sales Data

CPTA National Valuation and Legal Symposium

- Sales Comparison and Analysis of Sales Data

February 2013

**International Property Tax Institute/
Royal Institution of Chartered Surveyors Montego Bay Jamaica**

- Casino and Resort Valuation
- Expert Witness Report Preparation

May 2012

**China Fiscal Research Institute, Ministry of Finance,
People's Republic of China and
Lincoln Institute of Land Policy Workshop, Beijing China**

August 2006

International Appraisal Assignments

- France
- Germany

1998
2001

International Mass Appraisal Projects

- Non-Residential Mass Appraisal Submission US Virgin Islands

2004

Asset Management Study

- Jagallonian University Cracow Poland

2001, 2011

**International Property Tax Institute/
Royal Institution of Chartered Surveyors Port of Spain Trinidad**

Challenges and Recent Developments in Valuation and Construction:
Perspectives from the Public and Private Sectors

- Valuation Issues and Challenges

June 2013

Institute of Municipal Assessors Conference 2013

Box Store Valuation

June 2013

CPTA Annual National Workshop

Highest and Best Use Analysis

October 2013

Newfoundland Assessors St Johns Newfoundland

Highest and Best Use Analysis

November 2013

Institute of Municipal Assessors – International Property Tax Institute

Leisure Property Valuation

January 2014

International Property Tax Institute/ Sales and Income Approach

Royal Institution of Chartered Surveyors Georgetown Cayman Islands

February 2014

Institute of Municipal Assessors – IPTI -Alberta Assessors Association	
Courses: Sales Analysis and Land Valuation	April 2014
Institute of Municipal Assessors – IPTI –Sudbury and Thunder Bay	
Courses: Sales Analysis and Land Valuation	Sep/Oct 2014
International Property Tax Institute/Royal Institution of Chartered Surveyors	Barbados
Data and Reporting Sales and Income Approach	November 2014
Canadian Property Tax Association. Toronto	
Using Sales in the Valuation of Industrial Properties	February 2015
Developing Market Rent	January 2018
Edmonton Assessors	
Valuation of Contaminated Property	December 2016
Appraisal Institute Seminar, Ellicottville, New York	
Leisure Property Valuation	February 2017
International Valuation Conference, Ottawa	
Data Collection and Verification of Non-Residential Sales	June 2017
Webinars	
• Valuation of Multi-Res Property	May 2016
• Leisure Property Valuation	February 2017
• Valuation of Contaminated Property	September 2017
• Land Valuation	November 2017
• Expense Analysis and Cap Rates	February 2018
Valuation Procedure Manuals	
• Airports	
• Leisure Facilities	
• Entertainment Facilities	
• Sports Stadiums	
• Universities/Colleges	
• Sales Comparison Approach	
• Income Approach	
• Cost Approach	
• Casinos	
• Automotive Plants	
• Multi-Residential	
• Office Buildings	
• Shopping Centres	

Publications

Glen, John T., (2011) "The Effect of Environmental Factors on Real Estate Values", *Readings in Canadian Real Estate, 5th edition*, Bartel, H. and Arbuckle, G. ,eds.

Glen, John T., (2011) "The Development Approach", *Readings in Canadian Real Estate, 5th edition*, Bartel, H. and Arbuckle, G. ,eds.

Glen, John T., (2008), "Will the US Sub-Prime Crisis Head North?", *Canadian Property Valuer, 2008, Volume 52, Book 4*, Appraisal Institute of Canada.

Glen John T. (2017, 2018) "Area Measurement Standards", *CPTA Newsletter December 2017 and IMA InstaNews January 2018*.

RESEARCH FOR IPTI

Industry Overviews

- Mining and Mineral Property
- Oil and Gas
- Petrochemicals
- Steel Industry
- Aeronautical
- Food Processing
- Pharmaceutical
- Gaming Facilities
- Amusement Parks
- Stadiums
- Airports
- Automotive
- Auto Parts

Mining and Minerals

- Valuation of Gypsum Mine

Landfill

- Valuation of Landfill Sites
- Bibliography of Landfill Valuation
- Landfill Cases
 - Familiar with Royalty, DCF and Capacity Methods for Landfill Valuation

Wineries

- Vineyard Business
- Winery Business

Greenhouses

- Floral Business
- Cannabis Business

LAKE COUNTRY APPRAISAL SERVICES LTD.

QUALIFICATIONS OF JOHN D. SHAW AACI, P.App

MEMBER OF

Appraisal Institute of Canada - AACI, Accredited Appraiser Canadian Institute
P.App., Professional Appraiser

Granted the use of the AACI designation on November 29, 1974
Certificate #1335

PROFESSIONAL POSITIONS

1999 Member - Report Grading Committee

EDUCATION

Completed 128 Hours of Course Seminary covering such topics as:
Litigation, Trial Preparation, Special Use Properties under the
Re-certification program

Presented Paper on Appraisal Techniques

Post Secondary: Appraisal Institute of Canada
Designated Member 1974
Toronto, ON

Shaw's Business College
Registered Industrial Accounting Course

Secondary: Northern Technical School

EMPLOYMENT

2017 Lake Country Appraisal Services Ltd.
President

1996 - 2017 Consolidated Appraisal Services Ltd.
Owner and President

John D. Shaw Appraisal Consultants Ltd.

1990 - 1996 Simcoe County Appraisal Services Ltd.

1982 - 1990 Appraisal Group Professional Services (Canada) Ltd.
(Former Viceroy Appraisal Services Ltd.)
President

1982 Pacific Property Services, Vancouver President

21 Leeward Circle, Wasaga Beach, ON L9Z 0E9
Office: 705-352-1137
reservefund@rogers.com

LAKE COUNTRY APPRAISAL SERVICES LTD.

1981 -1982	MICC Appraisals & Inspections Limited Senior Regional Appraiser Vancouver
1979 - 1980	MICC Appraisal & Inspections Limited Toronto - Chief Appraiser
1976 -1979	The Mortgage Insurance Company Regional Appraiser
1975 - 1976	The Royal Trust Company Manager, Appraisal Services
1975	Ministry of Government Services (Natural Resources and Environment) Chief Appraiser
1972 -1975	Ontario Hydro - Appraiser Negotiator
1968 -1972	Ministry of the Environment Property Agent

PROFESSIONAL EXPERIENCE

Appraised a wide variety of Residential, Commercial, Industrial, and Investment real estate for mortgage purposes, acquisition, disposition, expropriation and litigation since 1968. Interests in real property appraised includes Freehold Estates (Fee simple ownership) Leasehold Estates (Leased fee interest and leasehold interest) and Easements.

Specialize in typical use properties such as environmentally sensitive or contaminated real estate assets, wet & dry land marinas, small & mega resorts, thoroughbred horse breeding farms, meat processing plants, greenhouse operations, broiler chicken and other government controlled supply management agrarian assets, wineries & vineyards, petroleum products retailing and petroleum products tank farm facilities, gravel pits & quarries, casinos and related Native land assets, private & government subsidized retirement/assisted care and nursing home facilities among others.

21 Leeward Circle, Wasaga Beach, ON L9Z 0E9
Office: 705-352-1137
reservefund@rogers.com

Appendix “K”

UNDERTAKING REGARDING PURCHASE OF SECOND FLOOR UNITS

TO: **KSV RESTRUCTURING INC. solely in its capacity as Receiver and Manager of the property, assets and undertaking of Mizrahi (128 Hazelton) Inc. and not in its personal capacity (the "Receiver")**

DATE: **Effective as of August 6, 2024**

Reference is made to (i) that certain agreement of purchase and sale between Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Constantine Enterprises Inc. ("**CEI**"), in respect of the sale of unit 201 together with one parking spot and one locker located at 126 Hazelton Avenue and 128 Hazelton Avenue, Toronto, Ontario, dated December 8, 2016, as amended (the "**201 APS**") and (ii) that certain agreement of purchase and sale between Hazelton and CEI, in respect of the sale of suite 204 (formerly unit 205) together with three parking spots and one locker located at 126 Hazelton Avenue and 128 Hazelton Avenue, Toronto, Ontario, dated December 8, 2016, as amended (the "**204 APS**", and together with the 201 APS, the "**Second Floor APSs**").

CEI hereby confirms, acknowledges, covenants and agrees that it will within 5 business days pay as required by the Receiver all amounts properly due and owing by Hazelton that are in priority to amounts owing to CEI to the extent of the portion of Hazelton's indebtedness owing to CEI which CEI credit bid in consideration for the purchase price under each of the Second Floor APSs; provided, in any case, that in the event of any dispute with the Receiver concerning such priority obligation, priority shall be determined by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") in Hazelton's receivership proceeding bearing court file number CV-24-00715321-00CL, and upon resolution of any dispute in favour of the Receiver, CEI shall pay such amounts to the Receiver within 5 business days of the Court's decision.

CONSTANTINE ENTERPRISES INC.

by


 Name: Robert Hiscox
 Title: President

Appendix “L”

AGREEMENT OF PURCHASE AND SALE

The undersigned, CONSTANTINE ENTERPRISES INC (collectively, the "Purchaser"), hereby agrees with MIZRAHI (128 HAZELTON) INC. (the "Vendor") to purchase the above-noted unit, as outlined for identification purposes only on the sketch attached hereto as Schedule "A", together with TWO (2) Parking Unit(s), and ONE (1) Locker Unit(s), which shall be allocated by the Vendor in its sole discretion being (a) proposed unit(s) in the Condominium, to be registered against those lands and premises situate in the City of Toronto and which are currently municipally known as 126 and 128 Hazelton Avenue (hereinafter called the "Property"), together with an undivided interest in the common elements appurtenant to such unit(s) and the exclusive use of those parts of the common elements attaching to such unit(s), as set out in the proposed Declaration (collectively, the "Unit") on the following terms and conditions:

1. The purchase price of the Unit (the "Purchase Price") is TWO MILLION TWO HUNDRED EIGHT THOUSAND EIGHT HUNDRED (\$2,208,800.00) DOLLARS in lawful money of Canada, payable as follows:

- (a) to Harris, Sheaffer LLP, in Trust, (the "Vendor's Solicitors" or "Escrow Agent" or "Trustee") in the following amounts at the following times, by cheque or bank draft, as deposits pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Occupancy Date:
 - (i) The sum of TWO HUNDRED TWENTY THOUSAND EIGHT HUNDRED EIGHTY (\$220,880.00) Dollars (being 10% of the Purchase Price) submitted with this Agreement;
 - (ii) The sum of TWO HUNDRED TWENTY THOUSAND EIGHT HUNDRED EIGHTY (\$220,880.00) Dollars (being 10% of the Purchase Price) submitted with this Agreement and post-dated three hundred and sixty-five (365) days following the date of execution of this Agreement by the Purchaser; and
 - (iii) The sum of THREE HUNDRED THIRTY ONE THOUSAND THREE HUNDRED TWENTY (\$331,320.00) Dollars (being 15% of the Purchase Price) on the Occupancy Date.
- (b) the balance of the Purchase Price by certified cheque on the Title Transfer Date to the Vendor or as the Vendor may direct, subject to the adjustments hereinafter set forth.

- 2. (a) The Purchaser shall occupy the Unit on the First Tentative Occupancy Date [as defined in the Statement of Critical Dates being part of the Tarion Addendum as hereinafter defined], or such extended or accelerated date that the Unit is substantially completed by the Vendor for occupancy by the Purchaser in accordance with the terms of this Agreement including, without limitation, the Tarion Addendum (the "Occupancy Date").
- (b) The transfer of title to the Unit shall be completed on the later of the Occupancy Date or a date established by the Vendor in accordance with Paragraph 14 hereof (the "Title Transfer Date").
- (c) The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is the address set out in the Tarion Addendum.
- (d) Notwithstanding anything contained in this Agreement (or in any schedules annexed hereto) to the contrary, it is expressly understood and agreed that if the Purchaser has not executed and delivered to the Vendor or its sales representative an acknowledgement of receipt of both the Vendor's disclosure statement and a copy of this Agreement duly executed by both parties hereto, within fifteen (15) days from the date of the Purchaser's execution of this Agreement as set out below, then the Purchaser shall be deemed to be in default hereunder and the Vendor shall have the unilateral right to terminate the Agreement at any time thereafter upon delivering written notice confirming such termination to the Purchaser, whereupon the Purchaser's initial deposit cheque shall be forthwith returned to the Purchaser by or on behalf of the Vendor.

The following Schedules of this Agreement, if attached hereto, shall form a part of this Agreement. The Purchaser acknowledges that he has read all Sections and Schedules of this Agreement and the form of Acknowledgement, if any:

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

DATED, signed, sealed and delivered this 18 day of November, 2016.

SIGNED, SEALED AND DELIVERED in the presence of

[Signature] . HISCOX C.E.A.
PURCHASER, CONSTANTINE ENTERPRISES INC.
ASO: ROBERT HISCOX

WITNESS: (as to all Purchaser's signatures, if more than

PURCHASER'S SOLICITOR: David Nakelsky davidn@gsnh.com
Address: 1600-480 University Avenue Toronto, Ontario M5G 1V2
Telephone: 416-597-9922 x 396 Facsimile: 416-597-3370

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

DATED, signed, sealed and delivered, this 18 day of November, 2016.

Vendor's Solicitors:

HARRIS, SHEAFFER LLP
Suite 610 - 4100 Yonge Street
Toronto, Ontario, M2P 3B5
Attn: Jeffrey P. Silver
Telephone: (416) 250-5800 Fax: (416) 250-5300

MIZRAHI (128 HAZELTON) INC.

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

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

Finishes

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

Deposits

5. (a) The Vendor shall credit the Purchaser with interest at the prescribed rate on either the Occupancy Date or Title Transfer Date at the Vendor's sole discretion on all money received by the Vendor on account of the Purchase Price from the date of deposit of the money received from time to time by the Vendor's Solicitors or the Trustee until the Occupancy Date. The Purchaser acknowledges and agrees that, for the purposes of subsection 81(6) of the Act, compliance with the requirement to provide written evidence, in the form prescribed by the Act, of payment of monies by or on behalf of the Purchaser on account of the Purchase Price of the Unit shall be deemed to have been sufficiently made by delivery of such written evidence to the address of the Purchaser noted in the Tarion Addendum. The Purchaser further acknowledges and agrees that any cheques provided to the Vendor on account of the Purchase Price will not be deposited and accordingly interest as prescribed by the Act will not accrue thereon, until after the expiry of the ten (10) day rescission period as provided for in section 73 of the Act (or any extension thereof as may be agreed to in writing by the Vendor). The Purchaser represents and warrants that the Purchaser is not a non-resident of Canada within the meaning of the Income Tax Act of Canada (the "ITA"). If the Purchaser is not a resident of Canada for the purposes of the ITA the Vendor shall be entitled to withhold and remit to CRA the appropriate amount of interest payable to the Purchaser on account of the deposits paid hereunder, under the ITA.
- (b) All deposits paid by the Purchaser shall be held by the Escrow Agent in a designated trust account, and shall be released only in accordance with the provisions of subsection 81(7) of the Act and the regulations thereto, as amended. Without limiting the generality of the foregoing, and for greater clarity, it is understood and agreed that with respect to any deposit monies received from the Purchaser the Escrow Agent shall be entitled to withdraw such deposit monies from said designated trust account prior to the Title Transfer Date if and only when the Vendor obtains a Certificate of Deposit from TWC for deposit monies up to Twenty Thousand (\$20,000.00) Dollars and with respect to deposit monies in excess of Twenty Thousand (\$20,000.00) Dollars, one or more excess condominium deposit insurance policies (issued by any insurer as may be selected by the Vendor, authorized to provide excess condominium deposit insurance in Ontario) insuring the deposit monies so withdrawn (or intended to be withdrawn), and delivers the said excess condominium deposit insurance policies (duly executed by or on behalf of the insurer and the Vendor) to the Escrow Agent holding the deposit monies for which said policies have been provided as security, in accordance with the provisions of section 21 of O. Reg. 48/01. Furthermore and without limiting the generality of the foregoing, the Vendor's Solicitors, Escrow Agent or the Trustee shall be permitted, upon written instructions from the Vendor, to transfer any and all deposits in its possession to another solicitor

representing the Vendor or replacement escrow agent, provided that such solicitor or replacement escrow agent undertakes to the Vendor's Solicitors, Escrow Agent or the Trustee to comply with the provisions of section 81 of the Act and to notify the Purchaser within 15 days of the transfer of such funds that it is now holding the deposits as escrow agent pursuant to the terms of the Act and this Agreement. Upon the transfer of the deposits in accordance with this paragraph, the Vendor's Solicitors, Escrow Agent or the Trustee shall have no further obligations to the Purchaser in its capacity as the escrow agent of the deposits and shall automatically be released from further liability as escrow agent of such deposits.

Adjustments

6. (a) Commencing as of the Occupancy Date, the Purchaser shall be responsible and be obligated to pay the following costs and/or charges in respect to the Unit:
- (i) all utility costs including electricity, gas and water (unless included as part of the common expenses); and
 - (ii) the Occupancy Fee owing by the Purchaser for Interim Occupancy prior to the Title Transfer Date (if applicable).
- (b) The Purchase Price shall be adjusted to reflect the following items, which shall be apportioned and allowed from the Title Transfer Date, with that day itself apportioned to the Purchaser:
- (i) realty taxes (including local improvement charges pursuant to the *Local Improvement Charges Act*, if any) which may be estimated as if the Unit has been assessed as fully completed by the taxing authority for the calendar year in which the transaction is completed as well as for the following calendar year, notwithstanding the same may not have been levied or paid on the Title Transfer Date. The Vendor shall be entitled in its sole discretion to collect from the Purchaser a reasonable estimate of the taxes as part of the Occupancy Fee and/or such further amounts on the Title Transfer Date, provided all amounts so collected shall either be remitted to the relevant taxing authority on account of the Unit or held by the Vendor pending receipt of final tax bills for the Unit, following which said realty taxes shall be readjusted in accordance with subsections 80(8) and (9) of the Act; and
 - (ii) common expense contributions attributable to the Unit, with the Purchaser being obliged to provide the Vendor on or before the Title Transfer Date with a series of post-dated cheques payable to the condominium corporation for the common expense contributions attributable to the Unit, for such period of time after the Title Transfer Date as determined by the Vendor (but in no event for more than one year).
- (c) Interest on all money paid by the Purchaser on account of the Purchase Price, shall be adjusted and credited to the Purchaser in accordance with paragraph 5 of this Agreement.
- (d) The Purchaser shall, in addition to the Purchase Price, pay the following amounts to the Vendor on the Title Transfer Date:
- (i) Any new taxes imposed on the Unit by the federal, provincial, or municipal government or any increases to existing taxes currently imposed on the Unit by such government.
 - (ii) Any amounts which remain unpaid and owing to the Vendor on account of upgrades and/or extras and/or changes ordered by the Purchaser.
 - (iii) The amount of any increase in development charge(s) and/or education development charge(s) (the "Levies") assessed against or attributable to the Unit (or assessed against the Property or any portion thereof, and attributable to the Unit by either pro-rating same in accordance with the proportion or percentage of common interests attributable thereto or by dividing same by the number of residential units in the Condominium), pursuant to the *Development Charges Act 1997*, S.O. 1997, as amended from time to time, and the *Education Act*, S.O. 1997, as amended from time to time, over the amount of such charges that would be exigible as of November 11, 2015 and the amount of any new Levies that were not exigible as of November 11, 2015 with respect to the Property and were subsequently assessed against the Property or attributable to the Unit.
 - (iv) The cost of the TWC enrolment fee for the Unit (together with any provincial or federal taxes exigible with respect thereto).
 - (v) The cost of utility meters, water meter installations, hydro and gas meter or check meter installations, water and sewer service connection charges and hydro and gas installation and connection or energization charges for the Condominium and/or the Unit, the Purchaser's portion of such installation and/or connection or energization charges and costs to be calculated by dividing the total amount of such charges and costs by the number of residential dwelling units in the Condominium and by charging the Purchaser in the statement of adjustments with that portion of the charges and costs, provided that such amounts shall not exceed One Thousand Dollars (\$1,000.00).
 - (vi) The charge imposed upon the Vendor or its solicitors by the Law Society of Upper Canada upon registration of a Transfer/Deed of Land or Charge/Mortgage of Land or any other instrument.
 - (vii) A sum of Fifty (\$50.00) for each cheque tendered pursuant to paragraphs 1(a) of this Agreement representing a reasonable reimbursement to the Vendor of the costs incurred or to be incurred by the Vendor in fulfillment of the requirements of subsection 81(6) of the Act.

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

then notwithstanding anything hereinbefore or hereinafter provided to the contrary, the Purchaser shall be obliged to pay to the Vendor (or to whomsoever the Vendor may in writing direct), by certified cheque delivered on the Title Transfer Date, an amount equivalent to the Rebate, in addition to the Purchase Price and in those circumstances where the Purchaser maintains that he is eligible for the Rebate despite the Vendor's belief to the contrary, the Purchaser shall (after payment of the amount equivalent to the Rebate as aforesaid) be fully entitled to pursue the procurement of the Rebate directly from CRA. It is further understood and agreed that in the event that the Purchaser intends to rent out the Unit before or after the Title Transfer Date, the Purchaser shall not be entitled to the Rebate, but may nevertheless be entitled to pursue, on

his or her own after the Title Transfer Date, the federal and provincial new rental housing rebates directly with CRA, pursuant to section 256.2 of the *Excise Tax Act*, as may be amended, and other applicable legislation to be enacted relating to the provincial new rental housing rebate.

- (i) Notwithstanding any other provision herein contained in this Agreement, the Purchaser acknowledges and agrees that the Purchase Price does not include any HST exigible with respect to any of the adjustments payable by the Purchaser pursuant to this Agreement, or any extras or upgrades or changes purchased, ordered or chosen by the Purchaser from the Vendor which are not specifically set forth in this Agreement, and the Purchaser covenants and agrees to pay such HST to the Vendor in accordance with the *Excise Tax Act*.
- (j) An administration fee of TWO HUNDRED AND FIFTY (\$250.00) DOLLARS shall be charged to the Purchaser for any cheque payable hereunder delivered to the Vendor or to the Vendor's Solicitors and not accepted by the Vendor's or the Vendor's Solicitor's bank for any reason. At the Vendor's option, this administration fee can be collected as an adjustment on the Title Transfer Date or together with the replacement cheque delivered by the Purchaser.

Title

7. The Vendor or its Solicitor shall notify the Purchaser or his/her Solicitor following registration of the Creating Documents so as to permit the Purchaser or his/her Solicitor to examine title to the Unit (the "**Notification Date**"). The Purchaser shall be allowed twenty (20) days from the Notification Date (the "**Examination Period**") to examine title to the Unit at the Purchaser's own expense and shall not call for the production of any surveys, title deeds, abstracts of title, grading certificates, occupancy permits or certificates, nor any other proof or evidence of the title or 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. Save as to any valid objections so made within the Examination Period, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Unit. The Purchaser acknowledges and agrees that the Vendor shall be entitled to respond to some or all of the requisitions submitted by or on behalf of the Purchaser through the use of a standard title memorandum or title advice statement prepared by the Vendor's Solicitors, and that same shall constitute a satisfactory manner of responding to the Purchaser's requisitions, thereby relieving the Vendor and the Vendor's Solicitors of the requirement to respond directly or specifically to the Purchaser's requisitions.

Direction Re: Title

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

Permitted Encumbrances

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

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

Vendor's Lien

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

Partial Discharges

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

Construction Lien Act

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

The Planning Act

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

Title Transfer Date

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

Purchaser's Covenants, Representations and Warranties

15. The Purchaser covenants and agrees that this Agreement is subordinate to and postponed to any mortgages arranged by the Vendor and any advances thereunder from time to time, and to any easement, license or other agreement concerning the Condominium and the Condominium Documents. The Purchaser further agrees to consent to and execute all documentation as may be required by the Vendor in this regard and the Purchaser hereby irrevocably appoints the Vendor as the Purchaser's attorney to execute any consents or other documents required by the Vendor to give effect to this paragraph. The Purchaser hereby consents to the Vendor obtaining a consumer's report containing credit and/or personal information for the purposes of this transaction. The Purchaser further agrees to deliver to the Vendor, from time to time, within ten (10) days of written demand from the Vendor, all necessary financial and personal information required by the Vendor in order to evidence the Purchaser's ability to pay the balance of the Purchase Price on the Title Transfer Date, including without limitation, written confirmation of the Purchaser's income and evidence of the source of the payments required to be made by the Purchaser in accordance with this Agreement. Without limiting the generality of the foregoing and notwithstanding any other provision in this Agreement to the contrary, within ten (10) days of written demand from the Vendor, the Purchaser agrees to produce evidence of a satisfactory mortgage approval signed by a lending institution or other mortgagee acceptable to the Vendor confirming that the said lending institution or acceptable mortgagee will be advancing funds to the Purchaser sufficient to pay the balance due on the Title Transfer Date. If the Purchaser fails to provide the mortgage approval as aforesaid, then the Purchaser shall be deemed to be in default under this Agreement. The Vendor may, in its sole discretion, elect to accept in the place of such mortgage commitment, other evidence satisfactory to the Vendor that the Purchaser will have sufficient funds to pay the balance due on the Title Transfer Date.
16. The Purchaser acknowledges that notwithstanding any rule of law to the contrary, that by executing this Agreement, it has not acquired any equitable or legal interest in the Unit or the Property. The Purchaser covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, Purchaser's Lien, or any other document providing evidence of this Agreement against title to the Property, Unit or the Condominium and further agrees not to give, register, or permit to be registered any encumbrance against the Property, Unit or the Condominium. Should the Purchaser be in default of his or her obligations hereunder, the Vendor may, as agent and attorney of the Purchaser, cause the removal of notice of this Agreement, caution or other document providing evidence of this Agreement or any assignment thereof, from the title to the Property, Unit or the Condominium. In addition, the Vendor, at its option, shall have the right to declare this Agreement null and void in accordance with the provisions of paragraph 25 hereof. The Purchaser hereby irrevocably consents to a court order removing such notice of this Agreement, any caution, or any other document or instrument whatsoever from title to the Property, Unit or the Condominium and the Purchaser agrees to pay all of the Vendor's costs and expenses in obtaining such order (including the Vendor's Solicitor's fees on a full indemnity basis).
17. The Purchaser covenants not to list for sale or lease, advertise for sale or lease, sell or lease, nor in any way assign his or her interest under this Agreement, or the Purchaser's rights and interests hereunder or in the Unit, nor directly or indirectly permit any third party to list or advertise the Unit for sale or lease, at any time until after the Title Transfer Date, without the prior written consent of the Vendor, which consent may be arbitrarily withheld. The Purchaser acknowledges and agrees that once a breach of the preceding covenant occurs, such breach is or shall be incapable of rectification, and accordingly the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement and the Occupancy License, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default, shall apply. The Purchaser shall be entitled to direct that title to the Unit be taken in the name of his or her spouse, or a member of his or her immediate family only, and shall not be permitted to direct title to any other third parties.
18. The Purchaser acknowledges that the Vendor is (or may in the future be) processing and/or completing one or more rezoning or minor variance applications with respect to the Property (and/or the lands adjacent thereto or in the neighbouring vicinity thereof), as well as a site plan approval/development application/draft plan of condominium approval with respect to the Property, in order to permit the development and construction of the Condominium thereon. The Purchaser acknowledges that during the rezoning, minor variance, site plan and/or draft plan of condominium approval process, the footprint or siting of the condominium building may shift from that originally proposed or intended, the overall height of the condominium building (and the number of levels/floors, and/or the number of dwelling units comprising the Condominium) may vary, and the location of the Condominium's proposed amenities may likewise be altered, without materially affecting the floor plan layout, design and size of the interior of the Unit, and the Purchaser hereby expressly agrees to complete this transaction notwithstanding the foregoing, without any abatement in the Purchase Price, and without any entitlement to a claim for damages or other compensation whatsoever. The Purchaser further covenants and agrees that it shall not oppose the aforementioned zoning, minor variance and site plan/development applications, nor any other applications ancillary thereto, including without

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

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

Termination without Default

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

Tarion Warranty Corporation

21. The Vendor represents and warrants to the Purchaser that the Vendor is a registered vendor/builder with the TWC. The Purchaser acknowledges and agrees that any warranties of workmanship or materials, in respect of any aspect of the construction of the Condominium including the Unit, whether implied by this Agreement or at law or in equity or by any statute or otherwise, shall be limited to only those warranties deemed to be given by the Vendor under the ONHWPA and shall extend only for the time period and in respect of those items as stated in the ONHWPA, it being understood and agreed that there is no representation, warranty, guarantee, collateral agreement, or condition precedent to, concurrent with or in any way affecting this Agreement, the Condominium or the Unit, other than as expressed herein. The Purchaser hereby irrevocably appoints the Vendor his/her agent to complete and execute the TWC Certificate of Deposit and any excess condominium deposit insurance documentation in this regard, as required, both on its own behalf and on behalf of the Purchaser.

Right of Entry

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

Occupancy

23. (a) Except where the Purchaser and the Vendor have agreed that the Purchaser shall be responsible for certain conditions of occupancy and subject to paragraph 9 of the Tarion Addendum, the Unit shall be deemed to be substantially completed when the interior work has been finished to the minimum standards allowed by the Municipality so that the Unit may be lawfully occupied notwithstanding that there remains other work within the Unit and/or the common elements to be completed. Except where the Purchaser is responsible for certain conditions of occupancy, the Purchaser shall not occupy the Unit until the Municipality has permitted same or consented thereto, if such consent is required and the Occupancy Date shall be postponed until such required consent is given. The Purchaser shall not require the Vendor to provide or produce an occupancy permit, certificate or authorization from the Municipality other than the documentation required by paragraph 9 of the Tarion Addendum. Provided that the Vendor complies with paragraph 9 of the Tarion Addendum, the Purchaser acknowledges that the failure to complete the common elements before the Occupancy Date shall not be deemed to be failure to complete the Unit, and the Purchaser agrees to complete this transaction notwithstanding any claim submitted to the Vendor and/or to the TWC in respect of apparent deficiencies or incomplete work provided, always, that such incomplete work does not prevent occupancy of the Unit as, otherwise, permitted by the Municipality.
- (b) If the Unit is substantially complete and fit for occupancy on the Occupancy Date, as provided for in subparagraph (a) above, but the Creating Documents have not been registered, (or in the event the Condominium is registered prior to the Occupancy Date and closing documentation has yet to be prepared), the Purchaser shall pay to the Vendor a further amount on account of the Purchase Price specified in paragraph 1(a) hereof without adjustment save for any pro-rated portion of the Occupancy Fee described and calculated in Schedule "C", and the Purchaser shall occupy the Unit on the Occupancy Date pursuant to the Occupancy Licence attached hereto as Schedule "C".

Inspection

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

event that the Vendor performs any additional work to the Unit in its discretion, the Vendor shall not be deemed to have waived the provision of this paragraph or otherwise enlarged its obligations hereunder.

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

Purchaser's Default

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

Common Elements

26. The Purchaser acknowledges that the Condominium will be constructed to Ontario Building Code requirements at the time of issuance of the building permit. The Purchaser covenants and agrees the Purchaser shall have no claims against the Vendor for any equal, higher or better standards of workmanship or materials. The Purchaser agrees that the

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

Executions

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

Risk

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

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

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

Tender/Termet

29. (a) The parties waive personal tender and agree that tender, in the absence of any other mutually acceptable arrangement and subject to the provisions of paragraph 30 of this Agreement shall be validly made by the Vendor upon the Purchaser, by a representative of the Vendor attending at the offices of Harris, Sheaffer, LLP at 12:00 noon on the Title Transfer Date or the Occupancy Date as the case may be and remaining there until 5:00 p.m. and is ready, willing and able to complete the transaction. The Purchaser agrees that keys may be released to the Purchaser as the construction site or sales office on the Occupancy Date or the Title Transfer Date, as applicable. The Vendor's advice that the keys are available shall be valid tender of possession of the Property to the Purchaser. In the event the Purchaser or his or her solicitor fails to appear or appears and fails to close, such attendance by the Vendor's representative (which includes the Vendor's Solicitors) shall be deemed satisfactory evidence that the Vendor is ready, willing and able to complete the sale at such time. Payment shall be tendered by certified cheque drawn on any Canadian chartered bank; and
- (b) It is further provided that, notwithstanding subparagraph 29 (a) hereof, in the event the Purchaser or his or her solicitor advise the Vendor or its Solicitors, on or before the Occupancy Date or Title Transfer Date, as applicable, that the Purchaser is unable or unwilling to complete the purchase or take occupancy, the Vendor is relieved of any obligation to make any formal tender upon the Purchaser or his or her solicitor and may exercise forthwith any and all of its right and remedies provided for in this Agreement and at law.
30. As the electronic registration system (hereinafter referred to as the "Teraview Electronic Registration System" or ("TERS")) is operative in the applicable Land Titles Office in which the Property is registered, then at the option of the Vendor's solicitor, the following provisions shall prevail:
- (a) The Purchaser shall be obliged to retain a solicitor, who is both an authorized TERS user and in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction. The Purchaser shall authorize such solicitor to, at the option of the Vendor's Solicitors, either execute an escrow closing agreement with the Vendor's Solicitor on the standard form recommended by the Law Society of Upper Canada (hereinafter referred to as the "Escrow Document Registration Agreement") establishing the procedures and timing for completing this transaction or to otherwise agree to be bound by the procedures set forth in the Escrow Document Registration Agreement.
 - (b) The delivery and exchange of documents, monies and keys to the Unit and the release thereof to the Vendor and the Purchaser, as the case may be:
 - (i) shall not occur contemporaneously with the registration of the Transfer/Deed (and other registerable documentation); and
 - (ii) shall be governed by the Escrow Document Registration Agreement, pursuant to which the solicitor receiving the documents, keys and/or certified funds will be required to hold same in escrow, and will not be entitled to release same except in strict accordance with the provisions of the Escrow Document Registration Agreement.

- (c) If the Purchaser's solicitor is unwilling or unable to complete this transaction via TERS, in accordance with the provisions contemplated under the Escrow Document Registration Agreement, then said solicitor (or the authorized agent thereof) shall be obliged to personally attend at the office of the Vendor's Solicitors, at such time on the Title Transfer Date as may be directed by the Vendor's solicitor or as mutually agreed upon, in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's Solicitors' office, and shall pay a fee as determined by the Vendor's Solicitors, acting reasonably for the use of the Vendor's computer facilities.
- (d) The Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the Transfer/Deed to the Unit for registration until the balance of funds due on closing, in accordance with the statement of adjustments, are either remitted by certified cheque via personal delivery or by electronic funds transfer to the vendor's solicitor (or in such other manner as the latter may direct) prior to the release of the Transfer/Deed for registration.
- (e) Each of the parties hereto agrees that the delivery of any documents not intended for registration on title to the Unit may be delivered to the other party hereto by telefax transmission (or by a similar system reproducing the original or by electronic transmission of electronically signed documents through the Internet), provided that all documents so transmitted have been duly and properly executed by the appropriate parties/signatories thereto which may be by electronic signature. The party transmitting any such document shall also deliver the original of same (unless the document is an electronically signed document pursuant to the *Electronic Commerce Act*) to the recipient party by overnight courier sent the day of closing or within 7 business days of closing, if same has been so requested by the recipient party.
- (f) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been validly made by the Vendor upon the Purchaser when the Vendor's solicitor has:
- (i) delivered all closing documents and/or funds to the Purchaser's solicitor in accordance with the provisions of the Escrow Document Registration Agreement and keys are made available for the Purchaser to pick up at the Vendor's sales of customer service office;
 - (ii) advised the Purchaser's solicitor, in writing, that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
 - (iii) has completed all steps required by TERS in order to complete this transaction that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's solicitor, and specifically when the "completeness signatory" for the transfer/deed has been electronically "signed" by the Vendor's Solicitors;

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

General

31. The Vendor shall provide a statutory declaration on the Title Transfer Date that it is not a non-resident of Canada within the meaning of the ITA.
32. The Vendor and Purchaser agree to pay the costs of registration of their own documents and any tax in connection therewith.
33. The Vendor and the Purchaser agree that there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Property or supported hereby other than as expressed herein in writing.
34. This Offer and its acceptance is to be read with all changes of gender or number required by the context and the terms, provisions and conditions hereof shall be for the benefit of and be binding upon the Vendor and the Purchaser, and as the context of this Agreement permits, their respective heirs, estate trustees, successors and permitted assigns.
35. The Purchaser acknowledges that the suite area of the Unit, as may be represented or referred to by the Vendor or any sales agent, or which appear in any sales material is approximate only, and is generally measured to the outside of all exterior, corridor and stairwell walls, and to the centre line of all party walls separating one unit from another. NOTE: For more information on the method of calculating the floor area of any unit, reference should be made to Builder Bulletin No. 22 published by the TWC. Actual useable floor space may (therefore) vary from any stated or represented floor area or gross floor area, and the extent of the actual or useable living space within the confines of the Unit may vary from any represented square footage or floor area measurement(s) made by or on behalf of the Vendor. In addition, the Purchaser is advised that the floor area measurements are generally calculated based on the middle floor of the Condominium building for each suite type, such that units on lower floors may have less floor space due to thicker structural members, mechanical rooms, etc., while units on higher floors may have more floor space. Accordingly, the Purchaser hereby confirms and agrees that all details and dimensions of the Unit purchased hereunder are approximate only, and that the Purchase Price shall not be subject to any adjustment or claim for compensation whatsoever, whether based upon the ultimate square footage of the Unit, or the actual or useable living space within the confines of the Unit or otherwise. The Purchaser further acknowledges that the ceiling height of the Unit is measured from the upper surface of the concrete floor slab (or subfloor) to the underside surface of the concrete ceiling slab (or joists). However, where ceiling bulkheads are installed within the Unit, and/or where dropped ceilings are required, then the ceiling height of the Unit will be less than that represented, and the Purchaser shall correspondingly be obliged to accept the same without any abatement or claim for compensation whatsoever.
36. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
37. The headings of this Agreement form no part hereof and are inserted for convenience of reference only.
38. Each of the provisions of this Agreement shall be deemed independent and severable and the invalidity or unenforceability in whole or in part of any one or more of such provisions shall not be deemed to impair or affect in

any manner the validity, enforceability or effect of the remainder of this Agreement, and in such event all the other provisions of this Agreement shall continue in full force and effect as if such invalid provision had never been included herein. The Purchaser and the Vendor acknowledge and agree that this Agreement and all amendments and addenda thereto shall constitute an agreement made under seal.

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

Notice

40. (a) Any notice required to be delivered under the provisions of the Tarion Addendum shall be delivered in the manner required by the Tarion Addendum.
- (b) Any other notice given pursuant to the terms of this Agreement shall be deemed to have been properly given if it is in writing and is delivered by hand, ordinary prepaid post, facsimile transmission or electronic mail to the attention of the Purchaser or to the Purchaser's solicitor to their respective addresses indicated herein or to the address of the Unit after the Occupancy Date and to the Vendor at 126 Hazelton Avenue, Toronto, Ontario, M5R 2E5 or to the Vendor's Solicitors at the address indicated in this Agreement or such other address as may from time to time be given by notice in accordance with the foregoing. Such notice shall be deemed to have been received on the day it was delivered by hand, by electronic mail or by facsimile transmission and upon the third day following posting, excluding Saturdays, Sundays and statutory holidays. This agreement or any amendment or addendum thereto may, at the Vendor's option, be properly delivered if it delivered by facsimile transmission or if a copy of same is computer scanned and forwarded by electronic mail to the other party.

Material Change

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

and that the Purchaser shall have absolutely no claim or cause of action whatsoever against the Vendor or its sales representatives (whether based or founded in contract, tort or in equity) for any such changes, deletions, alterations or modifications, nor shall the Purchaser be entitled to any abatement or reduction in the Purchase Price whatsoever as a consequence thereof, nor any notice thereof (unless any such change, deletion, alteration or modification to the said plans and specifications is material in nature (as defined by the Act) and significantly affects the fundamental character, use or value of the Unit and/or the Condominium, in which case the Vendor shall be obliged to notify the Purchaser in writing of such change, deletion, alteration or modification as soon as reasonably possible after the Vendor proposes to implement same, or otherwise becomes aware of same), and where any such change, deletion, alteration or

modification to the said plans and specifications is material in nature, then the Purchaser's only recourse and remedy shall be the termination of this Agreement prior to the Title Transfer Date (and specifically within 10 days after the Purchaser is notified or otherwise becomes aware of such material change), and the return of the Purchaser's deposit monies, together with interest accrued thereon at the rate prescribed by the Act.

Cause of Action/Assignment

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

Non-Merger

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

Notice/Warning Provisions

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

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

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

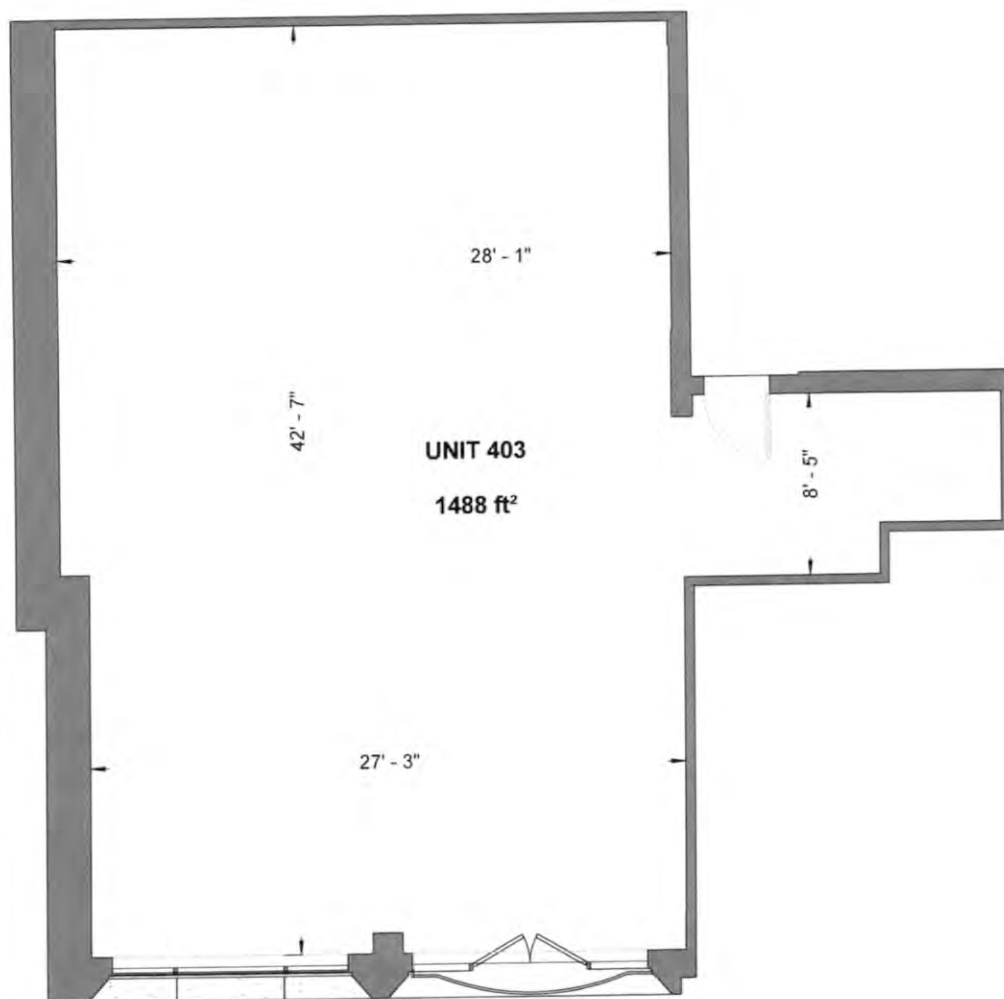
- (e) any financial institution(s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, with respect to the Unit, including without limitation, the Vendor's construction lender(s), the quantity surveyor monitoring the Project and its costs, the Vendor's designated construction lender(s), the Tarion Warranty Corporation and/or any warranty bond provider and/or excess condominium deposit insurer, required in connection with the development and/or construction financing of the Condominium and/or the financing of the Purchaser's acquisition of the Property from the Vendor;
- (f) any insurance companies of the Vendor providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof) and/or the common elements of the Condominium, and any title insurance companies providing (or wishing to provide) title insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of this transaction;
- (g) any trades/suppliers or sub-trades/suppliers, who have been retained by or on behalf of the Vendor (or who are otherwise dealing with the Vendor) to facilitate the completion and finishing of the Unit and the installation of any extras or upgrades ordered or requested by the Purchaser;
- (h) one or more providers of cable television, telephone, telecommunication, security alarm systems, hydro-electricity, chilled water/hot water, gas and/or other similar or related services to the Property (or any portion thereof) and/or the Condominium (collectively, the "Utilities"), unless the Purchaser gives the Vendor prior notice in writing not to disclose the Purchaser's personal information to one or more of the Utilities;
- (i) one or more third party data processing companies which handle or process marketing campaigns on behalf of the Vendor or other companies that are associated with, related to or affiliated with the Vendor, and who may send (by e-mail or other means) promotional literature/brochures about new condominiums and/or related services to the Purchaser and/or members of the Purchaser's family, unless the Purchaser gives the Vendor prior notice in writing not to disclose the Purchaser's personal information to said third party data processing companies;
- (j) the Vendor's solicitors, to facilitate the interim occupancy and/or final closing of this transaction, including the closing by electronic means via the Teraview Electronic Registration System, and which may (in turn) involve the disclosure of such personal information to an internet application service provider for distribution of documentation;
- (k) any person, where the Purchaser further consents to such disclosure or disclosures required by law.

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

SCHEDULE "A" TO THE AGREEMENT OF PURCHASE AND SALE

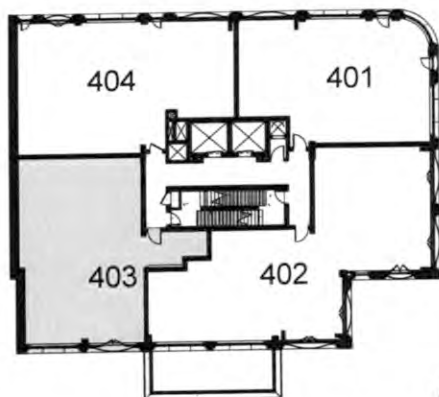
SKETCH

Level 4 , Legal Unit No UNIT 3



SUITE AREA: 1488 ft²

*AREAS PROVIDED BY KRCMAR SURVEYORS LTD.



*NOTE:
 -STRUCTURAL LAYOUT TO BE COORDINATED
 -COLUMNS MAY BE ADDED AS REQUIRED

Materials, specifications, floor plans and dimensions are subject to change without notice. Window sizes and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and balcony areas, subject to change E. & O.E.



[Signature] **ARCOX C.E.I.**
 Purchaser Acknowledgement

Nov 18, 2016
 Date

SCHEDULE "B" TO THE AGREEMENT OF PURCHASE AND SALE

FEATURES AND FINISHES

- Laundry Room
 - Ceramic floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
 - High efficiency front loading Washer and Dryer selected from Vendor's standard selections
- Living Room & Dining Room
 - Pre-finished engineered Hardwood floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling lights
- Foyer
 - Pre-finished engineered Hardwood floor in entranceway selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- Kitchen & Breakfast
 - Kitchen cabinetry selected from Vendor's standard selections
 - Stone countertops with coordinated backsplash selected from Vendor's standard selections
 - Stainless steel sink with coordinated fixture selected from Vendor's standard selections
 - Pre-finished engineered Hardwood floors selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
 - Valence lighting under cabinets
 - Gas or Electric Cooktop, Oven, Dishwasher, Refrigerator, Microwave and Hood fan selected from Vendor's standard selections
- Powder Room
 - Vanity with stone countertop selected from Vendor's standard selections
 - Under-mounted sink and fixtures selected from Vendor's standard selections
 - Privacy lock
 - Stone tile floor selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- Terraces/Balconies
 - In selected suites as per plan
 - Railing as per architectural building design
 - Exterior lighting as per architectural building design
- Library/Den
 - Pre-finished engineered Hardwood floor or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- Master Bedroom Suite
 - Pre-finished engineered Hardwood floor or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- Master Ensuite
 - Stone tiles selected from Vendor's standard selections
 - Heated floor with thermostatic control
 - Vanity with stone countertop, under-mounted sink, and fixtures selected from Vendor's standard selections
 - Bathtub and coordinated fixtures as per plan
 - Frameless glass shower enclosure as per plan
 - L.E.D. recessed ceiling light
 - Privacy lock
- Guest Bathroom
 - Stone tiles selected from Vendor's standard selections
 - Vanity with stone countertop, under-mounted sink, and fixtures selected from Vendor's standard selections
 - Bathtub and coordinated fixtures as per plan
 - Frameless glass shower enclosure as per plan
 - L.E.D. recessed ceiling light
 - Privacy lock
- Bedroom
 - Pre-finished engineered Hardwood floors or carpet selected from Vendor's standard selections
 - L.E.D. recessed ceiling light
- Ceilings, Walls & Doors
 - Minimum of 10' high ceilings (dropped ceilings at Kitchen, Bathrooms, Closets, Foyer, Laundry Room and Mechanical Room)
 - Smooth ceilings, walls and bulkheads throughout
 - 7" Baseboards
 - 3 ½ " Door casing with backband
 - Solid doors throughout
 - Door hardware selected from Vendor's standard selections
 - All ceilings, walls, baseboards, mouldings and doors to be painted.
 - Paint selected from Vendors standard selections
 - Energy Star custom windows with low E coating and argon gas
- Mechanical
 - Heat Pump with Humidifier and programmable thermostat
- Lighting & Electrical
 - White decorative switches and receptacles throughout
 - L.E.D. recessed ceiling light; 1 per 50 sq. feet
 - Ceiling light provision in Kitchen, Dining Room, Living Room and all Bedrooms
 - Valence lighting under kitchen cabinets
 - Rough-in for sconces and/or surface mounted fixtures in Master Ensuite and Powder Room
- Technology
 - Rough-in for cable, telephone, internet in Living Room, Kitchen, Library/Den and all Bedrooms

SCHEDULE "C" TO AGREEMENT OF PURCHASE AND SALE

TERMS OF OCCUPANCY LICENCE

- C.1 The transfer of title to the Unit shall take place on the Title Transfer Date upon which date, unless otherwise expressly provided for hereunder, the term of this Occupancy Licence shall be terminated.
- C.2 The Purchaser shall pay or have paid to the Vendor, on or before the Occupancy Date, by certified cheque drawn on a Canadian chartered bank the amount set forth in paragraph 1(a) of this Agreement without adjustment. Upon payment of such amount on the Occupancy Date, the Vendor grants to the Purchaser a licence to occupy the Unit from the Occupancy Date.

The Purchaser shall pay to the Vendor the Occupancy Fee calculated as follows:

- (a) the amount of interest payable in respect of the unpaid balance of the Purchase Price at the prescribed rate;
- (b) an amount reasonably estimated by the Vendor on a monthly basis for municipal realty taxes attributable by the Vendor to the Unit; and
- (c) the projected monthly common expense contribution for the Unit;

as an occupancy charge on the first day of each month in advance during Interim Occupancy, no part of which shall be credited as payments on account of the Purchase Price, but which payments shall be a charge for occupancy only. If the Occupancy Date is not the first day of the month, the Purchaser shall pay on the Occupancy Date a pro rata amount for the balance of the month by certified funds. The Purchaser shall deliver to the Vendor on or before the Occupancy Date a series of post-dated cheques as required by the Vendor for payment of the estimated monthly Occupancy Fee. The Occupancy Fee may be recalculated by the Vendor, from time to time based on revised estimates of the items which may be lawfully taken into account in the calculation thereof and the Purchaser shall pay to the Vendor such revised Occupancy Fee following notice from the Vendor. With respect to taxes, the Purchaser agrees that the amount estimated by the Vendor on account of municipal realty taxes attributed to the Unit shall be subject to recalculation based upon the real property tax assessment or reassessment of the Units and/or Condominium, issued by the municipality after the Title Transfer Date and the municipal tax mill rate in effect as at the date such assessment or reassessment is issued. The Occupancy Fee shall thereupon be recalculated by the Vendor and any amount owing by one party to the other shall be paid upon demand.

- C.3 The Purchaser shall be allowed to remain in occupancy of the Unit during Interim Occupancy provided the terms of this Occupancy Licence and the Agreement have been observed and performed by the Purchaser. In the event the Purchaser breaches the terms of occupancy the Vendor in its sole discretion and without limitation of any other rights or remedies provided for in this Agreement or at law may terminate this Agreement and revoke the Occupancy Licence whereupon the Purchaser shall be deemed a trespasser and shall give up vacant possession forthwith. The Vendor may take whatever steps it deems necessary to obtain vacant possession and the Purchaser shall reimburse the Vendor for all costs it may incur.
- C.4 At or prior to the time that the Purchaser takes possession of the Unit, the Purchaser shall execute and deliver to the Vendor any documents, directions, acknowledgments, assumption agreements or any and all other documents required by the Vendor pursuant to this Agreement, in the same manner as if the closing of the transaction was taking place at that time.
- C.5 The Purchaser shall pay the monthly Occupancy Fee during Interim Occupancy and the Vendor shall destroy all unused post-dated Occupancy Fee cheques on or shortly after the Title Transfer Date.
- C.6 The Purchaser agrees to maintain the Unit in a clean and sanitary condition and not to make any alterations, improvements or additions thereto without the prior written approval of the Vendor which may be unreasonably withheld. The Purchaser shall be responsible for all utility, telephone expenses, cable television service, or other charges and expenses billed directly to the occupant of the Unit by the supplier of such services and not the responsibility of the Condominium under the Condominium Documents.
- C.7 The Purchaser's occupancy of the Unit shall be governed by the provisions of the Condominium Documents and the provisions of this Agreement. The Unit may only be occupied and used in accordance with the Condominium Documents and for no other purpose.
- C.8 The Vendor covenants to proceed with all due diligence and dispatch to register the Creating Documents. If the Vendor for any reason whatsoever is unable to register the Creating Documents and therefore is unable to deliver a registrable Transfer/Deed to the Purchaser within twenty-four (24) months after the Occupancy Date, the Purchaser or Vendor shall have the right after such twenty-four (24) month period to give sixty (60) days written notice to the other, of an intention to terminate the Occupancy Licence and this Agreement. If the Vendor and Purchaser consent to termination, the Purchaser shall give up vacant possession and pay the Occupancy Fee to such date, after which this Agreement and Occupancy Licence shall be terminated and all moneys paid to the Vendor on account of the Purchase Price shall be returned to the Purchaser together with interest required by the Act, subject however, to any repair and redecorating expenses of the Vendor necessary to restore the Unit to its original state of occupancy, reasonable wear and tear excepted. The Purchaser and Vendor each agree to provide a release of this Agreement in the Vendor's standard form. If the Vendor and Purchaser do not consent to termination, the provisions of subsection 79(3) of the Act may be invoked by the Vendor.
- C.9 The Vendor and the Purchaser covenant and agree, notwithstanding the taking of possession, that all terms hereunder continue to be binding upon them and that the Vendor may enforce the provisions of the Occupancy Licence separate and apart from the purchase and sale provisions of this Agreement.

- C.10 The Purchaser acknowledges that the Vendor holds a fire insurance policy on the Condominium including all aspects of a standard unit only and not on any improvements or betterments made by or on behalf of the Purchaser. It is the responsibility of the Purchaser, after the Occupancy Date to insure the improvements or betterments to the Unit and to replace and/or repair same if they are removed, injured or destroyed. The Vendor is not liable for the Purchaser's loss occasioned by fire, theft or other casualty, unless caused by the Vendor's willful conduct.
- C.11 The Purchaser agrees to indemnify the Vendor for all losses, costs and expenses incurred as a result of the Purchaser's neglect, damage or use of the Unit or the Condominium, or by reason of injury to any person or property in or upon the Unit or the Condominium resulting from the negligence of the Purchaser, members of his immediate family, servants, agents, invitees, tenants, contractors and licensees. The Purchaser agrees that should the Vendor elect to repair or redecorate all or any part of the Unit or the Condominium as a result of the Purchaser's neglect, damage or use of the Unit or Condominium, he will immediately reimburse the Vendor for the cost of doing same, the determination of need for such repairs or redecoration shall be at the discretion of the Vendor, and such costs may be added to the Purchase Price.
- C.12 In accordance with subsections 80(6)(d) and (e) of the Act, subject to strict compliance by the Purchaser with the requirements of occupancy set forth in this Agreement, the Purchaser shall not have the right to assign, sublet or in any other manner dispose of the Occupancy Licence during Interim Occupancy without the prior written consent of the Vendor which consent may be arbitrarily withheld. The Purchaser acknowledges that an administrative fee will be payable to the Vendor each time the Purchaser wishes to assign, sublet or dispose of the Occupancy License during Interim Occupancy.
- C.13 The provisions set forth in this Agreement, unless otherwise expressly modified by the terms of the Occupancy Licence, shall be deemed to form an integral part of the Occupancy Licence. In the event the Vendor elects to terminate the Occupancy Licence pursuant to this Agreement following substantial damage to the Unit and/or the Condominium, the Occupancy Licence shall terminate forthwith upon notice from the Vendor to the Purchaser. If the Unit and/or the Condominium can be repaired within a reasonable time following damages as determined by the Vendor (but not, in any event, to exceed one hundred and eighty (180) days) and the Unit is, during such period of repairs uninhabitable, the Vendor shall proceed to carry out the necessary repairs to the Unit and/or the Condominium with all due dispatch and the Occupancy Fee shall abate during the period when the Unit remains uninhabitable; otherwise, the Purchaser shall vacate the Unit and deliver up vacant possession to the Vendor and all moneys, to the extent provided for in paragraph 20 hereof (excluding the Occupancy Fee paid to the Vendor) shall be returned to the Purchaser. It is understood and agreed that the proceeds of all insurance policies held by the Vendor are for the benefit of the Vendor alone.

SCHEDULE "D" TO AGREEMENT OF PURCHASE AND SALE

WARNING CLAUSES

- (a) The Purchaser is hereby advised that the Vendor's builder's risk and/or comprehensive liability insurance (effective prior to the registration of the Condominium), and the Condominium's master insurance policy (effective from and after the registration of the Condominium) will only cover the common elements and the standard unit and will not cover any betterments or improvements made to the standard unit, nor any furnishings or personal belongings of the Purchaser or other residents of the Unit, and accordingly the Purchaser should arrange for his or her own insurance coverage with respect to same, effective from and after the Occupancy Date, all at the Purchaser's sole cost and expense.
- (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 the Occupancy Date, from time to time, in order to enable the Vendor to correct outstanding deficiencies or incomplete work for which the Vendor is responsible, and to enable the Condominium to inspect the condition or state of repair of the Unit and undertake or complete any requisite repairs thereto (which the owner of the Unit has failed to do) in accordance with the Act.
- (c) The Vendor shall have the right to substitute any level in the Condominium with an alternative floor plate containing a modified design of units and/or number of units on the level. In the event that such modification becomes necessary, there shall be a reallocation of each owner's proportionate percentage and the Budget shall be modified accordingly. The Purchaser acknowledges that none of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Vendor to the Purchaser in connection with this transaction.
- (d) The Purchaser acknowledges being advised of the following notices:
- (i) Despite the best efforts of the Toronto District School Board, sufficient accommodation may not be locally available for all students anticipated from the development area and that students may be accommodated in facilities outside the area, and further, the students may later be transferred.
 - (ii) Purchasers agree for the purpose of transportation to school if bussing is provided by the Public District School Board in accordance with the Board's policy, that students will not be bussed from home to school, but will meet the bus at designated locations in or outside the area"
- (e) The Vendor reserves the right to increase or decrease the final number of residential, parking, and/or other ancillary units intended to be created within the Condominium, as well as the right to alter the design, style, size and/or configuration of the residential units ultimately comprised within the Condominium which have not yet been sold by the Vendor to any unit purchaser(s), all in the Vendor's sole discretion, and the Purchaser expressly acknowledges and agrees to the foregoing, provided that the final budget for the first year following registration of the Condominium is prepared in such a manner so that any such variance in the residential/parking and/or other ancillary unit count will not affect, in any material or substantial way, the percentages of common expenses and common interests allocated and attributable to the residential, parking and/or locker units sold by the Vendor to the Purchaser. Without limiting the generality of the foregoing, the Purchaser further acknowledges and agrees that one or more residential units or portions thereof situate adjacent to one another may be combined or amalgamated prior to the registration of the Condominium, in which case the common expenses and common interests attributable to such proposed former units will be incorporated into one figure or percentage in respect of the final combined unit, and the overall residential unit count of the Condominium will be varied and adjusted accordingly. None of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Vendor to the Purchaser in connection with this transaction.
- (f) Various commercial businesses are located within the vicinity of this residential development. Occasional off-site impacts, including odour, emissions and noise from these businesses may be expected.
- (g) Purchasers are advised that the Vendor's marketing material and site drawings and renderings ("**Marketing Material**") which they may have reviewed prior to the execution of this Agreement remains conceptual and that final building plans are subject to the final review and approval of any applicable governmental authority and the Vendor's design consultants and engineers, and accordingly such Marketing Material does not form part of this Agreement or the Vendor's obligations hereunder.
- (h) The Purchaser acknowledges and agrees that the Vendor reserves the right to add or relocate certain mechanical equipment within the Unit, including but not limited to, a heat pump system and ancillary equipment, to be located and placed along either the interior of an outside wall or an interior demising wall, in accordance with engineering and/or architectural requirements.
- (i) The Purchaser acknowledges that it is anticipated by the Vendor that in connection with the Vendor's application to the appropriate governmental authorities for draft plan of condominium approval certain requirements may be imposed upon the Vendor by various governmental authorities. These requirements (the "**Requirements**") usually relate to warning provisions to be given to Purchasers in connection with environmental or other concerns (such as warnings relating to noise levels, the proximity of the Condominium to major street, garbage storage and pickup, school transportation, and similar matters). Accordingly, the Purchaser covenants and agrees that (1) on either the Occupancy Date or the Title Transfer

Date, the Purchaser shall execute any and all documents required by the Vendor acknowledging, inter alia, that the Purchaser is aware of the Requirements, and (2) if the Vendor is required to incorporate the Requirements into the final Condominium Documents the Purchaser shall accept the same, without in any way affecting this transaction.

- (j) It is further acknowledged that one or more of the Development Agreements may require the Vendor to provide the Purchaser with certain notices, including without limitation, notices regarding such matters as land use, the maintenance of retaining walls, landscaping features and/or fencing, noise abatement features, garbage storage and pick-up, school transportation, and noise/vibration levels from adjacent roadways and/or nearby railway lines. The Purchaser agrees to be bound by the contents of any such notice(s), whether given to the Purchaser at the time that this Agreement has been entered into, or at any time thereafter up to the Title Transfer Date, and the Purchaser further covenants and agrees to execute, forthwith upon the Vendor's request, an express acknowledgment confirming the Purchaser's receipt of such notice(s) in accordance with (and in full compliance of) such provisions of the Development Agreement(s), if and when required to do so by the Vendor.
- (k) The Purchaser acknowledges and agrees that the Vendor (and any of its authorized agents, representatives and/or contractors), as well as one or more authorized representatives of the Condominium, shall be permitted to enter the Unit after the Occupancy Date, from time to time, in order to enable the Vendor to correct outstanding deficiencies or incomplete work for which the Vendor is responsible, and to enable the Condominium to inspect the condition or state of repair of the Unit and undertake or complete any requisite repairs thereto (which the owner of the Unit has failed to do) in accordance with the Act.

SCHEDULE "E" TO AGREEMENT OF PURCHASE AND SALE

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

1. A Disclosure Statement dated December 11, 2015 and accompanying documents in accordance with Section 72 of the Act.
2. A copy of the Agreement of Purchase and Sale (to which this acknowledgment is attached as a Schedule) executed by the Vendor and the Purchaser.

The Purchaser hereby acknowledges that receipt of the Disclosure Statement and accompanying documents referred to in paragraph 1 above may have been in an electronic format and that such delivery satisfies the Vendor's obligation to deliver a Disclosure Statement under the Act.

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

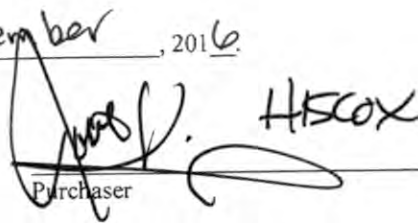
The Purchaser further acknowledges and agrees that in the event there is a material change to the Disclosure Statement as defined in subsection 74(2) of the Act, the Purchaser's only remedy shall be as set forth in subsection 74(6) of the Act, notwithstanding any rule of law or equity to the contrary.

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

DATED at Toronto, this 18 day of November, 2016.

WITNESS:

)
)
)
)
)
)
)


Purchaser

Purchaser

126 and 128 Hazelton Avenue
Property _____

Statement of Critical Dates
Delayed Occupancy Warranty

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

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

VENDOR Mizrahi (128 Hazelton) Inc.
Full Name(s)
PURCHASER Constantine Enterprises Inc.
Full Name(s)

1. Critical Dates

The **First Tentative Occupancy Date**, which is the date that the Vendor anticipates the home will be completed and ready to move in, is: the 31st day of December, 2018.

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

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

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

or

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

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

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

The **Outside Occupancy Date**, which is the latest date by which the Vendor agrees to provide Occupancy, is: the 31st day of December, 2019.

2. Notice Period for an Occupancy Delay

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

Notice of a delay beyond the First Tentative Occupancy Date must be given no later than: the 2nd day of October, 2018.

(i.e., at least **90 days** before the First Tentative Occupancy Date), or else the First Tentative Occupancy Date automatically becomes the Firm Occupancy Date.

3. Purchaser's Termination Period

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

the 30th day of January, 2020

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

Note: Any time a Critical Date is set or changed as permitted in the Addendum, other Critical Dates may change as well. At any given time the parties must refer to: the most recent revised Statement of Critical Dates; or agreement or written notice that sets a Critical Date, and calculate revised Critical Dates using the formulas contained in the Addendum. Critical Dates can also change if there are unavoidable delays (see section 5 of the Addendum).

Acknowledged this 18 day of October, 2016

VENDOR: [Signature]

PURCHASER: [Signature] HISCOX, C.E.O.

Addendum to Agreement of Purchase and Sale

Delayed Occupancy Warranty

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

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

The Vendor shall complete all blanks set out below.

VENDOR Mizrahi (128 Hazelton) Inc.

Full Name(s) 44647	126 Hazelton Avenue
Tarion Registration Number 416-922-4200	Address Toronto Ontario M5R 2E5
Phone 1-866-300-0219	City Province Postal Code Toronto Ontario M5R 2E5
Fax	Reception@MizrahiDevelopments.ca Email*

PURCHASER Constantine Enterprises Inc

Full Name(s) <u>1235 Bay St. Suite 700 Toronto</u>	<u>Ontario</u>
Address <u>416-266-0000</u>	City Province Postal Code Toronto Ontario M5R 3K4
Phone	Email* <u>robert@hiscox.org</u>
Fax	

PROPERTY DESCRIPTION

126 and 128 Hazelton Avenue
Municipal Address Toronto Ontario
City Province Postal Code Toronto Ontario M5R 2E5
Short Legal Description Part of Lots 1 and 2, Registered Plan 687-E and Part of Block A, Registered Plan 411, York, City of Toronto

INFORMATION REGARDING THE PROPERTY

The Vendor confirms that:

(a) The Vendor has obtained Formal Zoning Approval for the Building. Yes No
 If no, the Vendor shall give written notice to the Purchaser within 10 days after the date that Formal Zoning Approval for the Building is obtained.

(b) Commencement of Construction: has occurred; or is expected to occur by the 1st
 day of December, 2016.

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

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

SETTING AND CHANGING CRITICAL DATES
1. Setting Tentative Occupancy Dates and the Firm Occupancy Date

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

2. Changing the Firm Occupancy Date – Three Ways

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

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

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

4. Changing Critical Dates – By Mutual Agreement

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

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

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

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

5. Extending Dates – Due to Unavoidable Delay

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

EARLY TERMINATION CONDITIONS

6. Early Termination Conditions

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

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

Condition #1 (if applicable)

Description of the Early Termination Condition:

SEE APPENDIX

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

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

Condition #2 (if applicable)

Description of the Early Termination Condition:

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

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

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

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

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

MAKING A COMPENSATION CLAIM
7. Delayed Occupancy Compensation

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

8. Adjustments to Purchase Price

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

MISCELLANEOUS
9. Ontario Building Code – Conditions of Occupancy

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

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

10. Termination of the Purchase Agreement

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

11. Refund of Monies Paid on Termination

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

12. Definitions

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

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

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

“**Closing**” means completion of the sale of the home, including transfer of title to the home to the Purchaser.
 “**Commencement of Construction**” means the commencement of construction of foundation components or elements (such as footings, rafts or piles) for the Building.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Addendum Prevails

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

14. Time Periods, and How Notice Must Be Sent

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

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

15. Disputes Regarding Termination

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

For more information please visit www.tarion.com

SCHEDULE A
Types of Permitted Early Termination Conditions
1. The Vendor of a condominium home is permitted to make the Purchase Agreement conditional as follows:

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

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

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

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

2. The following definitions apply in this Schedule:

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

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

3. Each condition must:

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

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

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

SCHEDULE B**Adjustments to Purchase Price or Balance Due on Closing****PART I Stipulated Amounts/Adjustments**

These are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing, the dollar value of which is stipulated in the Purchase Agreement and set out below.

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

1.

2. SEE ATTACHED

3.

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

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

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

1.

SEE ATTACHED

2.

3.

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

The following Early Termination Conditions shall form an integral part of the Agreement of Purchase and Sale and Tarion Addendum, as contemplated therein:

Early Termination Condition No. 1:

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

The date by which this Condition is to be satisfied is the 30th day of December, 2016.

**SCHEDULE B TO ADDENDUM
ADJUSTMENT TO PURCHASE PRICE OR BALANCE DUE ON CLOSING**

PART I – Stipulated Amounts/Adjustments

These are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing, the dollar value of which is stipulated in the Purchase Agreement and set out below.

	DESCRIPTION	SECTION	AMOUNT
1	Cheque administration fee (subsection 81(6) of the Condominium Act)	6(d)(vii)	\$50.00 per cheque, plus HST
2	Certain Amendments	6(e)	\$350.00, plus HST
3	Unaccepted cheque	6(j)	\$250.000, per cheque

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

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

	DESCRIPTION	SECTION
1	Utility costs	6(a)(i)
2	Occupancy Fees and other amounts	6(a)(ii); 23(b); Schedule C to Purchase Agreement
3	Realty taxes	6(b)(i)
	Common expense contributions	6(b)(ii)
4	Any new taxes or increases to existing taxes	6(d)(i)
5	Upgrades and/or extras and/or charges	6(d)(ii)
6	Increase of Levies or new Levies	6(d)(iii)
7	TWC enrolment fee	6(d)(iv)
8	Utility meters, connection, installation, energization, etc., charges	6(d)(v)
9	Law Society of Upper Canada charge imposed on Vendor or its solicitors	6(d)(vi)
10	Any other additional or further adjustments agreed to in writing between the Vendor and Purchaser subsequent to the execution of this Agreement	6(d)(vii)
11	Leased hot water tank	6(f)
12	Utility Supplier(s) deposit(s)	6(g)
13	HST Rebate where Purchaser does not qualify for the Rebate	6(h)
14	HST on Adjustments	6(i)
15	Removing unauthorized title registrations	16
16	Interest and liquidated damages	25(b)
17	Use of Vendor's solicitor's computer facilities	30(c)



Form 150 for use in the Province of Ontario

Assignment of Agreement of Purchase and Sale Condominium

This Assignment of Agreement of Purchase and Sale dated this 07 day of July 20 24

ASSIGNEE: Murad Shibeli (Full legal names of all Assignees), agrees to purchase from

ASSIGNOR: Constantine Enterprise inc (Full legal names of all Assignors), the following

THE ASSIGNOR'S INTEREST IN THE REAL PROPERTY:

a unit in the condominium property located at 128 Hazelton Ave, 403, Toronto, ON M5R 1J3

in the being

Unit No. 403 Level No. 4 Condominium Plan No.

Building No. known as Unit No. together with ownership (Apartment/Townhouse/Suite/Unit)

or exclusive use of Parking Space(s) One Underground Spot Assigned to Unit (Number(s), Level(s)), together with ownership or exclusive use of

Locker(s) One Locker Assigned to Unit (Number(s), Level(s)), together with seller's proportionate undivided tenancy-in-common interest

in the common elements appurtenant to the Unit as described in the Declaration and Description including the exclusive right to use such other parts of the common elements appurtenant to the Unit as may be specified in the Declaration and Description: the Unit, the proportionate interest in the common elements appurtenant thereto, and the exclusive use portions of the common elements, being herein called the "property".

PURCHASE PRICE: Four M.S. Fifty M.S. Dollars (CDN\$) \$2,420,000 \$2,450,000 M.S. Two million three hundred twenty thousand and 00/100 Dollars

DEPOSIT: Assignee submits Upon Acceptance (Herewith/Upon Acceptance/as otherwise described in this Agreement) \$121,000 M.S. One hundred sixteen thousand and 00/100 Dollars (CDN\$) 116,000.00

by negotiable cheque payable to FERROW REAL ESTATE INC. "Deposit Holder" to be held in trust pending completion or other termination of this Assignment agreement ("Assignment") and to be credited toward the Purchase Price on completion. For the purposes of this Assignment, "Upon Acceptance" shall mean that the Assignee is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Assignment agreement. The parties to this Assignment hereby acknowledge that, unless otherwise provided for in this Assignment, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

The Assignee and Assignor acknowledge that the Purchase Price noted above includes both the purchase price the Assignor is paying for the property as indicated in the Agreement of Purchase and Sale between the Assignor and the seller of the property attached hereto as Schedule C, and also includes the amount being paid by the Assignee to the Assignor as payment for the Assignment Agreement. The Assignee and Assignor agree that the funds for this transaction will be calculated and paid as set out in Schedule B attached hereto and forming part of this Agreement.

Assignee agrees to pay the balance as more particularly set out in Schedules A and B attached.

Schedules A, B (Calculation of funds for this Agreement), C (Agreement of Purchase and Sale that is the subject of this Assignment), attached hereto form(s) part of this Agreement.

INITIALS OF ASSIGNEE(S): M.S.

INITIALS OF ASSIGNOR(S):

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Assignee M.S.

Assignor [Signature]

1. IRREVOCABILITY: This offer shall be irrevocable by [Signature] until 3:00pm on 13th M.S. the 13th day of July 2024, after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Assignee in full without interest.

2. ASSIGNMENT: The Assignor agrees to grant and assign to the Assignee, forthwith all the Assignor's rights, title and interest, in, under and to the Agreement of Purchase and Sale attached hereto in Schedule "C".

3. ASSIGNEE COVENANTS: The Assignee hereby covenants and agrees with the Assignor that forthwith upon the assignment of the Agreement of Purchase and Sale it will assume, perform, comply with and be bound by, all obligations, warranties and representations of the Assignor as contained in the Agreement of Purchase and Sale as if the Assignee had originally executed the Agreement of Purchase and Sale as buyer with the seller.

4. ASSIGNOR COVENANTS: The Assignor covenants and represents that: (a) the Assignor has the full right, power and authority to assign the prior Agreement of Purchase and Sale attached hereto as Schedule "C" (the "Agreement of Purchase and Sale") and the Assignor's interest in the property; (b) the Agreement of Purchase and Sale attached hereto as Schedule "C" is a full and complete copy thereof and has not been amended, supplemented, terminated or otherwise changed in any way and is in good standing and has not previously been assigned. (c) the Assignor will not amend the Agreement of Purchase and Sale without the Assignee's prior written consent; (d) after acceptance of this Assignment Agreement until the earlier of termination or completion of the Agreement of Purchase and Sale attached hereto as Schedule "C", the Assignor will not further assign the Agreement of Purchase and Sale. (e) neither party to the Agreement of Purchase and Sale (Schedule C) has done any act in breach of the said Agreement of Purchase and Sale or committed any omission with respect to the said Agreement of Purchase and Sale.

5. NOTICES: The Assignor hereby appoints the Listing Brokerage as agent for the Assignor for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Assignee's Brokerage) has entered into a representation agreement with the Assignee, the Assignee hereby appoints the Assignee's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. The Brokerage shall not be appointed or authorized to be agent for either the Assignee or the Assignor for the purpose of giving and receiving notices where the Brokerage represents both the Assignor and the Assignee (multiple representation) or where the Assignee or the Assignor is a self-represented party. Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to the facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.: (For delivery of Documents to Assignor) FAX No.: (For delivery of Documents to Assignee) Email Address: aamalhotra235@gmail.com (For delivery of Documents to Assignor) Email Address: Seodinok@gmail.com (For delivery of Documents to Assignee)

6. HST: If the sale of the Property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be included in the Purchase Price. If the sale of the Property is not subject to HST, Assignor agrees to certify on or before closing, that the sale of the Property is not subject to HST. Any HST on chattels, if applicable, is not included in the Purchase Price.

7. FUTURE USE: Assignor and Assignee agree that there is no representation or warranty of any kind that the future intended use of the property by Assignee is or will be lawful except as may be specifically provided for in this Assignment.

8. INSPECTION: Assignee acknowledges having had the opportunity to inspect the property or the plans and documents for the property to be constructed and understands that upon acceptance of this offer there shall be a binding Assignment agreement between Assignee and Assignor.

9. PLANNING ACT: Provided that this Assignment shall not be effective to create or convey an interest in the property unless and until the provisions of the Planning Act RSO 1990 c. P13, as amended are complied with.

INITIALS OF ASSIGNEE(S): M.S.

INITIALS OF ASSIGNOR(S): [Signature]

- 10. RESIDENCY:** (a) Subject to (b) below, the Assignor represents and warrants that the Assignor is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Assignor shall deliver to the Assignee a statutory declaration that Assignor is not then a non-resident of Canada; (b) provided that if the Assignor is a non-resident under the non-residency provisions of the Income Tax Act, the Assignee shall be credited towards the Purchase Price with the amount, if any, necessary for Assignee to pay to the Minister of National Revenue to satisfy Assignee's liability in respect of tax payable by Assignor under the non-residency provisions of the Income Tax Act by reason of this sale. Assignee shall not claim such credit if Assignor delivers on completion the prescribed certificate.
- 11. ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Assignee.
- 12. PROPERTY ASSESSMENT:** The Assignee and Assignor hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Assignee and Assignor agree that no claim will be made against the Assignee or Assignor, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.
- 13. TIME LIMITS:** 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 Assignor and Assignee or by their respective lawyers who may be specifically authorized in that regard.
- 14. TENDER:** Any tender of documents or money hereunder may be made upon the Assignor or Assignee or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time.
- 15. APPROVAL OF THE AGREEMENT:** In the event that consent to this Assignment is required to be given by the seller in the Agreement of Purchase and Sale attached hereto in Schedule C, the Assignor will apply, at the sole expense of the Assignor, forthwith for the requisite consent, and if such consent is refused, then this agreement shall be null and void and the deposit monies paid hereunder shall be refunded without interest or other penalty to the Assignee.
- 16. AGREE TO CO-OPERATE:** Except as otherwise expressed herein to the contrary, each of the Assignor and Assignee shall, without receiving additional consideration therefor, co-operate with and take such additional actions as may be requested by the other party, acting reasonably, in order to carry out the purpose and intent of this Assignment.
- 17. DEFAULT BY SELLER:** The Assignee and Assignor acknowledge and agree that if this Assignment Agreement is not completed due to the default of the seller for the Agreement of Purchase and Sale (Schedule C) that is the subject of this Assignment, the Assignor shall not be liable for any expenses, losses or damages incurred by the Assignee and this Assignment Agreement shall become null and void and all moneys paid by the Assignee under this Assignment Agreement shall be returned to the Assignee in full without interest.
- 18. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the Brokerage is not legal, tax or environmental advice.
- 19. CONSUMER REPORTS: The Assignee is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
- 20. AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Assignment (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Assignment including any Schedule attached hereto, shall constitute the entire agreement between Assignee and Assignor. There is no representation, warranty, collateral agreement or condition, which affects this Assignment other than as expressed herein. This Assignment shall be read with all changes of gender or number required by the context.
- 21. ELECTRONIC SIGNATURES:** The parties hereto consent and agree to the use of electronic signatures pursuant to the *Electronic Commerce Act, 2000, S.O. 2000, c17* as amended from time to time with respect to this Agreement and any other documents respecting this transaction.
- 22. TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF ASSIGNEE(S):

M.S.

INITIALS OF ASSIGNOR(S):



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23. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) (Assignee) Murad Shibeli (Seal) (Date) 07/12/2024

I, the Undersigned Assignor, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) (Assignor) (Seal) (Date) 07/12/24

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 9:14 PM this 07/12/24 (a.m./p.m.) day of, 20.....

(Signature of Assignor or Assignee) Authenticator

Table with 2 columns: Brokerage Name, Telephone Number. Includes FERROW REAL ESTATE INC (416-568-2092) and Harvey Kalles Real Estate LTD. (416-441-2888).

ACKNOWLEDGEMENT

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

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

Grid of fields for Assignor and Assignee details including Date, Address for Service, Lawyer, and Contact Information.

FOR OFFICE USE ONLY

COMMISSION TRUST AGREEMENT

To: Co-operating Brokerage shown on the foregoing Assignment Agreement. In consideration for the Co-operating Brokerage procuring the foregoing Assignment Agreement, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust.

DATED as of the date and time of the acceptance of the foregoing Assignment Agreement. Acknowledged by: Anisija Nojkova (Authorized to bind the Co-operating Brokerage)



Schedule A

Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Assignment of Agreement of Purchase and Sale - Condominium between:

ASSIGNEE: Murad Shibeli....., and

ASSIGNOR: Constantine Enterprise inc.....

for the purchase and sale of 128 Hazelton Ave, 403, Toronto, ON M5R 1J3

..... dated the 11..... day of July....., 20 24.....

BALANCE OF PAYMENT UNDER THIS ASSIGNMENT AGREEMENT: The Assignee will deliver the balance of payment for this Assignment Agreement as more particularly set out in Item 6. on Schedule B, subject to adjustments, with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time, to the Assignor prior to completing the transaction in the Agreement of Purchase and Sale attached hereto as Schedule "C" to be held in trust without interest pending completion or other termination of the Agreement of Purchase and Sale attached hereto as Schedule "C".

For the purposes of this Agreement, the terms "banking days" or "business days" shall mean any day other than a Saturday, Sunday, or a Statutory Holiday in Toronto, Ontario, Canada.

~~This Agreement is conditional, for five (5) business days from the date of confirmation of acceptance, upon the inspection of the Property by a home inspector of the Buyer's choice and at the Buyer's own expense, and receipt of a report satisfactory to them in their sole and absolute discretion. Unless the Buyer/Co-Operating Brokerage gives notice in writing, delivered to the Seller/Listing Brokerage within the time period stated above that this condition has been fulfilled, this Agreement shall be null and void and the deposit shall be returned to the Buyer in full, without interest or deduction. The Seller agrees to co-operate in providing access to the Property for the purpose of this inspection at reasonable times upon reasonable notice given by the Buyer. This condition is included for the sole benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller/Listing Brokerage within the time period stated herein.~~

M.S.

~~This Agreement is conditional for five (5) business days from the date of confirmation of acceptance, upon the Buyer being able to arrange satisfactory financing at their sole and absolute discretion. Unless the Buyer/Co-Operating Brokerage gives notice in writing, delivered to the Seller/Listing Brokerage within the time period stated above that this condition has been fulfilled, this Agreement shall be null and void and the deposit shall be returned to the Buyer in full, without interest or deduction. The Seller agrees to provide access to the Property, when and if necessary within the designated conditional time period for the purpose of Mortgage financing appraisal. This condition is included for the sole benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller/Listing Brokerage within the time period stated herein.~~

M.S.

~~This offer is conditional for five (5) business days from the date of confirmation of acceptance,~~

M.S.

This form must be initialed by all parties to the Assignment of Agreement of Purchase and Sale.

INITIALS OF ASSIGNEE(S): M.S.

INITIALS OF ASSIGNOR(S):



Schedule A

Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

ASSIGNEE: Murad Shibeli, and

ASSIGNOR: Constantine Enterprise inc

for the purchase and sale of 128 Hazelton Ave, 403, Toronto, ON M5R 1J3

..... dated the 11 day of July, 20 24

BALANCE OF PAYMENT UNDER THIS ASSIGNMENT AGREEMENT: The Assignee will deliver the balance of payment for this Assignment Agreement as more particularly set out in Item 6. on Schedule B, subject to adjustments, with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time, to the Assignor prior to completing the transaction in the Agreement of Purchase and Sale attached hereto as Schedule "C" to be held in trust without interest pending completion or other termination of the Agreement of Purchase and Sale attached hereto as Schedule "C".

~~Upon the Buyer obtaining insurance for the property satisfactory to the Buyer in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to co-operate in providing access to the property, if necessary, for any inspection of the property required for the fulfillment of this condition. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller within the time period stated herein. The Seller agrees to provide at the Seller's expense (within ten days of acceptance of this Offer), a current status certificate and attachments. This Offer is conditional upon the Buyer and Buyer's Lawyer having Ten (10) Business days from receipt, excluding Saturday, Sunday and Statutory Holidays, to review in their sole and absolute discretion and to be satisfied regarding contents of such documentation; failing which this Offer shall become null and void and the deposit shall be returned to the Buyer without interest or deduction. This condition is included for the benefit of the Buyer and may be waived in writing at the Buyer's sole option within the period stated above with written notice to the Seller.~~

Authenticity Verified

M.S.

The Buyer may visit the property Three (3) times, each that will last to a maximum of one (1) hour, prior to closing at mutually agreeable times. During these visits, the Buyer shall be permitted to take measurements and to bring consultants to obtain quotations. The Seller(s) acknowledges that in addition to the above number of visits, the bank may require an additional visit for the purpose of a bank appraisal. The Seller(s) agrees to allow the bank appraiser access to the property for this additional visit, if applicable.

The Seller represents and warrants that the fixtures and chattels included in the purchase price

This form must be initialed by all parties to the Assignment of Agreement of Purchase and Sale.

INITIALS OF ASSIGNEE(S):

INITIALS OF ASSIGNOR(S):



Schedule A

Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

ASSIGNEE: Murad Shibeli....., and

ASSIGNOR: Constantine Enterprise inc.....

for the purchase and sale of 128 Hazelton Ave., 403, Toronto, ON M5R 1J3

..... dated the 11..... day of July....., 2024.....

BALANCE OF PAYMENT UNDER THIS ASSIGNMENT AGREEMENT: The Assignee will deliver the balance of payment for this Assignment Agreement as more particularly set out in Item 6. on Schedule B, subject to adjustments, with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time, to the Assignor prior to completing the transaction in the Agreement of Purchase and Sale attached hereto as Schedule "C" to be held in trust without interest pending completion or other termination of the Agreement of Purchase and Sale attached hereto as Schedule "C".

may not be substituted, and are now and on the closing date will be in working order. The parties agree that this representation and warranty shall survive and not merge on the closing of this transaction, but apply only to the state of the property at the completion of this transaction.

The Seller and Buyer agree that all offers, counter-offers, and other documents related hereto, may be communicated by facsimile. The Buyer and Seller agree to treat said documents in the same manner as if the documents transmitted were original documents.

If known to the Seller and undisclosed to the Buyer at time of Buyer's offer, Seller undertakes to pay from sale proceeds on closing any special assessments or increase in common expenses for the current fiscal year as disclosed in the Status Certificate, or contemplated prior to closing by the condominium board of directors or by the condominium management.

Seller covenants that no improvements, additions or repairs which require the consent of the condominium corporation have been carried out without such consent in the said unit or upon its exclusive use areas or common elements.

In addition to providing at least one set of entry door key(s) to the subject property through the Seller's Lawyer on closing, the Seller will also provide on closing another set of entry door key(s) to be released through either a Listing Broker's office, or to be made accessible in a lock box on the premises (or with a designated person at the subject property), it being understood that all other available key(s), security card(s), security information and remote control(s) to the unit and any mail box, locker, parking and common area facilities will be provided on closing or left in the kitchen of the unit except for any items which management requires to be returned.

The Seller represents and warrants that, with respect to the unit, the Condominium Act, Declaration
This form must be initialed by all parties to the Assignment of Agreement of Purchase and Sale.

INITIALS OF ASSIGNEE(S): M.S

INITIALS OF ASSIGNOR(S): [Signature]



Schedule A

Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

ASSIGNEE: Murad Shibeli....., and

ASSIGNOR: Constantine Enterprise inc.....

for the purchase and sale of 128 Hazelton Ave, 403, Toronto, ON M5R 1J3

..... dated the 11..... day of July....., 2024

BALANCE OF PAYMENT UNDER THIS ASSIGNMENT AGREEMENT: The Assignee will deliver the balance of payment for this Assignment Agreement as more particularly set out in Item 6. on Schedule B, subject to adjustments, with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time, to the Assignor prior to completing the transaction in the Agreement of Purchase and Sale attached hereto as Schedule "C" to be held in trust without interest pending completion or other termination of the Agreement of Purchase and Sale attached hereto as Schedule "C".

By-laws and Rules of the Condominium Corporation have been complied with, and that no improvements, additions, alterations or repairs that require the consent of the Condominium Corporation have been carried out in the said unit, the exclusive use areas of the common elements, unless the required consent has been obtained from the Condominium Corporation. This warranty shall survive and not merge on the completion of this transaction.

The Buyer and Seller acknowledge that the types of representation as defined in the Trust in Real Estate Services Act, 2002 were explained prior to the execution of this Offer and the Confirmation of Co-operation and Representation was completed prior to the Offer being signed by the Buyer and reviewed and signed by the Seller.

The Buyer and Seller acknowledge having been advised by the sales representatives prior to the execution of this Offer that they and their Brokerages are insured as governed by the Trust in Real Estate Services Act, 2002 and its Regulations.

The Seller and the Buyer agree and/or acknowledge that no information provided by Harvey Kalles Real Estate Ltd., Brokerage and/or its Brokers and Salespersons is to be construed as expert legal, financial, tax, building condition, construction, environmental or other professional advice and that they have had the opportunity to consult with any such professional advisers prior to signing this Agreement.

The Buyer and Seller hereby agree to allow the Listing and Selling Brokerages to use this property in future marketing material.

The Seller and the Buyer agree and/or acknowledge that all lot dimensions, room measurements and information provided by Harvey Kalles Real Estate Ltd., Brokerage and its Brokers and Salespersons in the MLS listing, feature sheet and any other marketing materials have been obtained from sources deemed reliable, however, they have been provided for information purposes only and as such, Harvey

This form must be initialed by all parties to the Assignment of Agreement of Purchase and Sale.

INITIALS OF ASSIGNEE(S): M.S

INITIALS OF ASSIGNOR(S): [Signature]



Schedule A

Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

ASSIGNEE: Murad Shibeli....., and

ASSIGNOR: Constantine Enterprise inc.....

for the purchase and sale of 128 Hazelton Ave, 403, Toronto, ON M5R 1J3.....

..... dated the 11..... day of July....., 2024.....

BALANCE OF PAYMENT UNDER THIS ASSIGNMENT AGREEMENT: The Assignee will deliver the balance of payment for this Assignment Agreement as more particularly set out in Item 6. on Schedule B, subject to adjustments, with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time, to the Assignor prior to completing the transaction in the Agreement of Purchase and Sale attached hereto as Schedule "C" to be held in trust without interest pending completion or other termination of the Agreement of Purchase and Sale attached hereto as Schedule "C".

Kalles Real Estate Ltd., Brokerage does not warrant their accuracy. The Buyer is advised to verify any lot / house dimensions, measurements or information upon which they are relying.

The Seller warrants that the Property will be delivered to the Buyer in broom swept condition, and that all debris will removed from the Property at the time of closing

The Owner shall obtain an occupancy permit from the city of Toronto prior to or on closing date.

This Offer is conditional for ten (10) business days upon the approval of the terms hereof and condo docs ie status certificate etc by the Buyer's solicitor. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto within the time period stated above, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

This Offer is conditional for ten (10) business days upon the approval of the Builder's consent of assignment. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto within the time period stated above, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

This form must be initialed by all parties to the Assignment of Agreement of Purchase and Sale.

INITIALS OF ASSIGNEE(S): M.S.

INITIALS OF ASSIGNOR(S): [Signature]

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Schedule A

Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

ASSIGNEE: Murad Shibeli....., and

ASSIGNOR: Constantine Enterprise inc.....

for the purchase and sale of 128 Hazelton Ave, 403, Toronto, ON M5R 1J3

..... dated the 11..... day of July....., 2024

BALANCE OF PAYMENT UNDER THIS ASSIGNMENT AGREEMENT: The Assignee will deliver the balance of payment for this Assignment Agreement as more particularly set out in Item 6. on Schedule B, subject to adjustments, with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time, to the Assignor prior to completing the transaction in the Agreement of Purchase and Sale attached hereto as Schedule "C" to be held in trust without interest pending completion or other termination of the Agreement of Purchase and Sale attached hereto as Schedule "C".

The Assignee will pay the next deposit instalment in favour of the Seller to the builder when it becomes due on closing; conditional on firming and execution of this agreement.

Assignor shall provide original Purchase agreement of unit 403 - 128 Hazelton Ave to be attached as schedule C to this agreement

COMPLETION DATE:

This Agreement shall be completed by no later than 6:00pm on the 14th day of August 2024. Upon Completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided in this agreement.

M.S. 

The Assignee/Buyer and Assignor/Seller Mutually agrees to complete all requisites with the Ministry of Finance, with Proof of Payment of Land Transfer Taxes paid by the Assignee, in order to reflect a \$2 transfer on Closing Pertianing to property addressed #403-128 Hazelton Ave, Toronto. The Assignee agrees to Provide Proof of Payment from the Ministry of Finance within a minimum of two (2) business day before the Closing date. The Assignee and Assignor Mutually agree that the Nominal value of \$2 does not reflect the Sale Price of this Agreement of purchase and sale.


M.S.

This form must be initialed by all parties to the Assignment of Agreement of Purchase and Sale.

INITIALS OF ASSIGNEE(S): 

INITIALS OF ASSIGNOR(S): 



Schedule B Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Assignment of Agreement of Purchase and Sale - Condominium between:

ASSIGNEE: Murad Shibeli....., and

ASSIGNOR: Constantine Enterprise inc.....

for the purchase and sale of 128 Hazelton Ave, 403, Toronto, ON M5R 1J3.....

..... dated the 11..... day of July....., 2024.....

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

1.	Total Purchase Price including the original Agreement of Purchase and Sale and this Assignment Agreement:	<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> <div style="text-align: right;"> <p>\$2,450,000</p> <p>\$2,500,000</p> <p>\$ 2,400,000.00</p> </div> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> </div>
2.	Purchase Price of original Agreement of Purchase and Sale as indicated in Schedule C:	<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> <div style="text-align: right;"> <p>\$ 2,320,000.00</p> </div> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> </div>
3.	Deposit(s) paid by Assignor to the seller under the original Agreement of Purchase and Sale as indicated in Schedule C, to be paid by the Assignee to the Assignor as follows:	<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> <div style="text-align: right;"> <p>\$441,760</p> <p>\$41,000.00</p> </div> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> </div>
<u>Upon final closing of original Agreement of Purchase and Sale and this Assignment Agreement.</u>		
(Upon acceptance of this Assignment Agreement and receipt of consent to assign from original seller, if applicable/Upon final closing of original Agreement of Purchase and Sale and this Assignment Agreement/As otherwise described here or elsewhere in this Agreement) 130,000.00		
4.	Payment by Assignee to Assignor for this Assignment Agreement:	<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> <div style="text-align: right;"> <p>\$190,935.43</p> <p>\$0,000.00</p> </div> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> </div>
5.	Deposit paid under this Assignment Agreement (in accordance with Page 1 of this Assignment Agreement):	<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> <div style="text-align: right;"> <p>\$121,000</p> <p>\$15,000.00</p> </div> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> </div>
6.	Balance of the payment for this Assignment Agreement:	<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> <div style="text-align: right;"> <p>\$511,715.43</p> <p>\$05,000.00</p> <p>\$450,760.00</p> </div> <div style="border: 1px solid black; border-radius: 50%; padding: 2px;">MS</div> </div>

This form must be initialed by all parties to the Assignment of Agreement of Purchase and Sale.

INITIALS OF ASSIGNEE(S): M.S.

INITIALS OF ASSIGNOR(S): MS

Appendix “M”

THIS CONSENT AND AMENDMENT (“**AGREEMENT**”) IS MADE this ___th day of July, 2024

CONSTANTINE ENTERPRISES INC.
(hereinafter referred to as the “Assignor”)
OF THE FIRST PART

–AND–

MURAD SHIBELI
(hereinafter referred to as the “Assignee”)
OF THE SECOND PART

-AND-

KSV RESTRUCTURING INC. (“KSV”)
solely in its capacity as Receiver and Manager of
the property, assets and undertaking of
MIZRAHI (128 Hazelton) INC.
and not in its personal capacity
(hereinafter referred to as the “Vendor”)
OF THE THIRD PART

WHEREAS the Assignor and Mizrahi (128 Hazelton) Inc. have entered into an agreement of purchase and sale dated the 18th day of November, 2016, including all amendments and upgrade and/or change orders, if applicable, attached hereto (the “Purchase Agreement”) whereby the Assignor agreed to purchase and Mizrahi (128 Hazelton) Inc. agreed to sell proposed Residential Unit 03, Level 4, known as Suite 403, together with Parking Unit 9, Level B Parking Unit 11, Level A and Locker Unit 17, Level C (collectively, the “Units”), which Units were to be purchased by the Assignor together with its appurtenant interest in the common elements in accordance with the condominium plan documentation proposed to be registered against the land and premises described in the Purchase Agreement and municipally located at 128 Hazelton Avenue, Toronto, Ontario (the “Condominium”).

AND WHEREAS the Assignor and the Assignee desire that the Assignor assign unto the Assignee all of her rights, title and benefits and interest in the Units, to and under the Purchase Agreement.

AND WHEREAS pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated June 4, 2024, KSV was appointed as receiver and manager of the property, assets and undertaking of Mizrahi (128 Hazelton) Inc. and has authority to enter into this agreement and, subject to further Order of the Court, to convey title in the Units to the Assignee.

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

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

1. The parties hereto hereby acknowledge and confirm that the foregoing recitals are true both in substance and in fact.
2. The Assignor hereby assigns, transfers and sets over to the Assignee by way of absolute assignment, all of its rights, title, benefit and interest in the Units, to and under the Purchase Agreement.
3. The Assignee hereby covenants and agrees to and with the Assignor and the Vendor to assume the burden of all obligations on the part of the Assignor to be performed and/or borne pursuant to the Purchase

Agreement, and further covenants and agrees to be bound by the terms and provisions of the Purchase Agreement as though it has originally executed same as the Purchaser.

4. The Assignee covenants and agrees with the Vendor that it shall forthwith do and suffer any act, and/or execute any documentation, which the Vendor may require from time to time in its sole, absolute and unfettered discretion for the purposes of confirming the assumption by the Assignee of the Assignor's obligations pursuant to the Purchase Agreement.

5. The Vendor hereby, subject to the terms herein and the granting of an Order by the Court approving the Purchase Agreement and the transaction contemplated therein (the "Approval Order"), consents to the within assignment of the Purchase Agreement from the Assignor to the Assignee.

6. The Vendor covenants and agrees to use its commercially reasonable efforts to seek the Approval Order on or before August 19, 2024, subject to Court availability.

7. The Parties hereby acknowledge and agree that notwithstanding any other provisions of the Purchase Agreement, the Purchase Agreement is amended as contemplated by the amendments set out in Schedule "A" hereto.

8. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

9. Time shall be of the essence of this Agreement, and the Purchase Agreement, and all terms of the Purchase Agreement shall continue in full force and effect.

10. This Agreement shall enure to the benefit of and be binding upon the parties hereto their respective successors and assigns.

11. The Assignor warrants and confirms that the Purchase Agreement is in good standing and all deposits paid by the Assignor to date under paragraph 1(a) as amended (totaling \$441,760.00) have been paid and the Vendor agrees that such deposits shall be credited to the Assignee on closing as part of the purchase price.

12. The Assignee agrees to pay all further deposits payable under the Purchase Agreement, if any, and the balance of the purchase price by wire transfer, bank draft or by certified cheque to the Vendor on closing in accordance with the provisions of the Purchase Agreement.

13. The Assignor further agrees to pay to the Vendor upon execution of this Agreement a sum equivalent \$1,500.00 plus applicable HST as an administration fee to the Vendor for giving its consent as described herein.

14. Notwithstanding any other agreement between the Assignor and the Assignee, the Assignee hereby assigns all of its rights under the Purchase Agreement to acquire Parking Unit 11, Level A to the Assignor. Accordingly, the Assignor and the Assignee hereby direct the Vendor to transfer, on the Title Transfer Date, title to Parking Unit 11 Level A into the name of the Assignor.

15. The Assignor hereby guarantees the due and timely performance and fulfillment of all covenants and obligations of the Assignee arising under this Agreement and the Purchase Agreement, including without limitation, the obligation to pay the purchase price in respect of the Unit to the Vendor, and all other monies owing or payable to the Vendor by the "Purchaser" in accordance with the provisions of the Purchase Agreement, and agrees to indemnify and save the Vendor harmless from and against all losses, damages, costs and expenses which the Vendor may sustain, incur or become liable for, by reason of the Assignee's default under this Agreement, or the Purchase Agreement. In the event of the Assignee's failure to complete the transaction in accordance with the terms and conditions of the Purchase Agreement, the Assignee acknowledges and agrees that the Vendor has the right, but not the obligation, to call upon the Assignor to complete the transaction in the Assignee's place, and where the Assignor is specifically called upon to pay the purchase price, the Assignee acknowledges and agrees that the Assignor shall have the right to receive

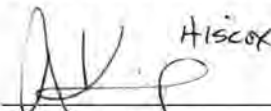
title to the Unit, and the Assignee shall release the Vendor and the Assignor from and against any and all costs, damages, actions, proceedings, demands and/or claims whatsoever which either of the parties hereto now has, or may hereafter have, against the other party hereto, by reason of, or in connection with, the Purchase Agreement (and any and all addenda thereto or amendments thereof) and/or the completion thereof by the Assignor and Vendor in such case.

16. Any further assignment of the Purchase Agreement by the Assignee shall remain to be subject to the terms of the Purchase Agreement.

17. The parties hereto agree that notice of acceptance and delivery of the within offer and all communications thereto may be made by facsimile, or other electronic means addressed to the parties hereto or their solicitors or their agents. The parties hereto agree facsimile or other electronic copies shall constitute original copies.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first written above.

CONSTANTINE ENTERPRISES INC.

 Hiscox

Name: _____
Title: **R HISCOX , ASO for the Assignor**


I have the authority to bind the Corporation

Witness



Assignee: **MURAD SHIBELI**

KSV RESTRUCTURING INC.
solely in its capacity
as Receiver and Manager of
the property, assets and undertaking of
MIZRAHI (128 Hazelton) INC.
and not in its personal capacity

Per: 
Name: Robert Kofman
Title: President

I/We have the authority to bind the Corporation

SCHEDULE "A" – AMENDMENTS TO PURCHASE AGREEMENT

The Parties hereby agree that:

- (a) Notwithstanding any provision of the Purchase Agreement including Schedule "B" thereto, the Units are being purchased only to the state of the finishes existing as of the date of this Agreement and no additional work will be required to be performed by the Vendor in respect of the Units.
- (b) (i) the Units are being purchased on an "as is, where is" basis; and (ii) no representation or warranty, either express or implied, has been or will be given by the Vendor as to the title to or the boundaries of the Unit and the Property, the condition of the Unit, the environmental condition of the Unit and the Property, soil and subsoil conditions, the zoning and other laws, by-laws, regulations, rules or codes applicable to the Unit and the Property, the size, quality, quantity, fitness for purpose and/or marketability of the Unit and the Property, or any other matter or thing affecting or related to the Unit or the Property or any part thereof or the transaction contemplated hereby; and (iii) the Purchaser has not relied upon any representation or warranty or upon any offering material or other information furnished to the Purchaser by the Vendor or the Vendor's agent or any other person or entity including, without limitation, any reports, studies or assessments provided to the Purchaser by or on behalf of the Vendor.
- (c) "Title Transfer Date" and "Occupancy Date" shall be the date that is two (2) business days after the date on which the Approval Order is granted.
- (d) The address provided for the Vendor in Section 40, being "126 Hazelton Avenue, Toronto, Ontario M5R 2E5" is deleted and replaced with the following:

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20
Toronto, ON M5J 2W4
Attention: Bobby Kofman
Email: bkofman@ksvadvisory.com

Appendix “N”

THIS AMENDING AGREEMENT ("AMENDMENT") IS MADE this 14th day of August, 2024

CONSTANTINE ENTERPRISES INC.
(hereinafter referred to as the "Assignor")
OF THE FIRST PART

-AND-

MURAD SHIBELI
(hereinafter referred to as the "Assignee")
OF THE SECOND PART

-AND-

FAWZIA AHMED GASHUT
(hereinafter referred to as the "Subsequent Assignee")
OF THE THIRD PART

-AND-

KSV RESTRUCTURING INC. ("KSV")
solely in its capacity as Receiver and Manager of
the property, assets and undertaking of
MIZRAHI (128 Hazelton) INC.
and not in its personal capacity
(hereinafter referred to as the "Vendor")
OF THE FOURTH PART

WHEREAS the Assignor and Mizrahi (128 Hazelton) Inc. have entered into an agreement of purchase and sale dated the 18th day of November, 2016, including all amendments and upgrade and/or change orders, if applicable (the "Purchase Agreement") whereby the Assignor agreed to purchase and Mizrahi (128 Hazelton) Inc. agreed to sell proposed Residential Unit 03, Level 4, known as Suite 403, together with Parking Unit 9, Level B, Parking Unit 11, Level A and Locker Unit 17, Level C (collectively, the "Units"), which Units were to be purchased by the Assignor together with its appurtenant interest in the common elements in accordance with the condominium plan documentation proposed to be registered against the land and premises described in the Purchase Agreement and municipally located at 128 Hazelton Avenue, Toronto, Ontario.

AND WHEREAS the Assignor and the Assignee entered into a Consent and Amendment made as of July __, 2024 pursuant to which the Assignor assigned unto the Assignee all of its rights, title and benefits and interest in the Units, to and under the Purchase Agreement (the "Consent to Assignment").

AND WHEREAS the Assignee and the Subsequent Assignee desire that the Assignor assign unto the Subsequent Assignee (rather than to the Assignee) all of its rights, title and benefits and interest in the Units, and in to and under the Purchase Agreement;

AND WHEREAS the Vendor has agreed to consent to the said assignment on the terms set forth in the Consent to Assignment as amended hereby;

AND WHEREAS the Consent to Assignment inadvertently described the Units to include "Parking Unit 11, Level A".

AND WHEREAS the parties to the Consent to Assignment wish to amend the Consent to Assignment to correct the error in the description of the Units and to amend the Purchase Agreement to extend the "Title Transfer Date" and "Occupancy Date" on the terms and conditions set out herein;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants and

agreements herein contained and the sum of TEN DOLLARS (\$10.00) of lawful money of Canada paid by each of the parties hereto to the other and for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of them) the parties hereby covenant and agrees as follows:

1. The Assignee hereby assigns, transfers and sets over to the Subsequent Assignee by way of absolute assignment, all of its rights, title, benefit and interest in the Units, and in, to and under the Purchase Agreement.
2. The Subsequent Assignee hereby covenants and agrees to and with the Assignor and the Vendor to assume the obligations on the part of the Assignee to be performed and/or borne pursuant to the Purchase Agreement, and further covenants and agrees to be bound by the terms and provisions of the Purchase Agreement as though it has originally executed same as the Assignee.
3. The Assignee hereby assigns, transfers and sets over to the Subsequent Assignee by way of absolute assignment, all of its rights, title, benefit and interest in, to and under the Consent to Assignment.
4. The Subsequent Assignee hereby covenants and agrees to and with the Assignor and the Vendor to assume the obligations on the part of the Assignee to be performed and/or borne pursuant to the Consent to Assignment, and further covenants and agrees to be bound by the terms and provisions of the Consent to Assignment as though it has originally executed same as the Assignee.
5. The Consent to Assignment is hereby amended to delete the references in the first recital and Section 14 to "Unit 11, Level A" and "Unit 11 Level A", as applicable, and to replace each of those references with "Unit 2, Level B".
6. Notwithstanding any other provision of the Purchase Agreement, Schedule "A" attached to the Consent to Assignment and the Purchase Agreement is hereby amended to delete the text in clause (c) of Schedule "A" attached to the Consent to the Assignment and replace it with the following:


(c) "Title Transfer Date" and "Occupancy Date" shall be the date that is twenty-five (25) days or the first business day thereafter after the date on which the Approval Order is granted.

7. Except as expressly stated herein, the terms of the Consent to Assignment and the Purchase Agreement remain unamended and in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF the parties have executed this Amendment on the date first written above.

CONSTANTINE ENTERPRISES INC.

Per:  Hiscox


Name: Robert Hiscox

Title: ASO for the Assignor

I have the authority to bind the Corporation


Witness


Assignee: MURAD SHIBELI


Witness


Subsequent Assignee: FAWZIA AHMED GASHUT

KSV RESTRUCTURING INC.

solely in its capacity

as Receiver and Manager of

the property, assets and undertaking of

MIZRAHI (128 Hazelton) INC.

and not in its personal capacity

Per: 

Name: Robert Kofman

Title: President

I/We have the authority to bind the Corporation

CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-00715321-00CL

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

Proceeding commenced at Toronto

**SECOND REPORT OF THE RECEIVER
DATED AUGUST 20, 2024**

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000, P.O. Box 53
Toronto, ON M5K 1E7

Jennifer Stam, LSO#: 46735J

Tel: 416.202.6707

jennifer.stam@nortonrosefulbright.com

Lauren Archibald LSO# 87151U

Tel: 416.278.3787

lauren.archibald@nortonrosefulbright.com

Lawyers for the Receiver

TAB 3

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 30 TH
)	
JUSTICE CAVANAGH	)	DAY OF AUGUST, 2024

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

**APPROVAL AND VESTING ORDER
(Retail APS)**

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (“**Hazelton**”) and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”, together with Hazelton, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order approving the Stalking Horse APA, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the “**Second Report**”), and the sale of the Retail APS (as defined in the Second Report) to Constantine Enterprises Inc. (the “**Purchaser**”), and vesting in the Purchaser all of Retail’s right, title and interest in the Retail APS, was heard this day was heard this day by Zoom videoconference.

ON READING the Report and on hearing the submissions of counsel for the Receiver, the Purchaser, and [OTHER NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lauren Archibald sworn August 20, 2024 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Transaction is hereby approved and the execution of the Stalking Horse APA, *nunc pro tunc*, by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such further documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Retail APS to the Purchaser.
3. **THIS COURT ORDERS** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of Retail's right, title and interest in and to the Retail APS shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**", which term shall not include any permitted encumbrances and the Assumed Liabilities, as defined in the Second Report) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Retail APS are hereby expunged and discharged as against the Retail APS.
4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Retail APS shall stand in the place and stead of the Retail APS, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Retail APS with the same

priority as they had with respect to the Retail APS immediately prior to the sale, as if the Retail APS had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

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

the vesting of the Retail APS in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-24-00715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

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

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the "**Court**") dated June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "**Receiver**") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc. ("**Retail**").

B. Pursuant to an Order of the Court dated [**DATE**], the Court approved the Stalking Horse APA, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**"), the sale of the Retail APS to Constantine Enterprises Inc. (the "**Purchaser**"), and provided for the vesting in the Purchaser all of Retail's right, title and interest in and to the Retail APS, which vesting is to be effective with respect to the Retail APS upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the

- 2 -

Purchase Price for the Retail APS; (ii) that the conditions to Closing as set out in sections 4.1, 4.2 and 4.3 of the Stalking Horse APA have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Second Report or the Stalking Horse APA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Retail APS payable on the Closing Date pursuant to the Stalking Horse APA;
2. The conditions to Closing as set out in sections 4.1, 4.2 and 4.3 of the Stalking Horse APA have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV Restructuring Inc., in its capacity as Receiver of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity

Per: _____

Name:

Title:

CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-00715321-00CL

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

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(Retail APS)**

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000, P.O. Box 53
Toronto, ON M5K 1E7

Jennifer Stam, LSO#: 46735J

Tel: 416.202.6707

jennifer.stam@nortonrosefulbright.com

Lauren Archibald LSO#: 87151U

Tel: 416.278.3787

lauren.archibald@nortonrosefulbright.com

Lawyers for the Receiver

TAB 4

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) ~~WEEKDAY~~FRIDAY, THE #30TH
)
 JUSTICE CAVANAGH) DAY OF ~~MONTH~~AUGUST, ~~20~~YR2024

CONSTANTINE ENTERPRISES INC.

Applicant

~~BETWEEN:-~~

~~PLAINTIFF~~

~~Plaintiff~~

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

~~DEFENDANT~~

~~Defendant~~

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

**APPROVAL AND VESTING ORDER
(Retail APS)**

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets~~

~~described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.~~

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**", together with Hazelton, the "**Debtors**"), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order approving the Stalking Horse APA, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**"), and the sale of the Retail APS (as defined in the Second Report) to Constantine Enterprises Inc. (the "**Purchaser**"), and vesting in the Purchaser all of Retail's right, title and interest in the Retail APS, was heard this day was heard this day by Zoom videoconference.

ON READING the Report and on hearing the submissions of counsel for the Receiver, ~~[the Purchaser, and [OTHER NAMES OF OTHER PARTIES APPEARING]~~, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Lauren Archibald sworn ~~[DATE]~~ August 20, 2024 filed¹:

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

2. ~~1. THIS COURT ORDERS AND DECLARES~~ that the Transaction is hereby approved,² and the execution of the ~~Sale Agreement~~ Stalking Horse APA, nunc pro tunc, by the Receiver³ is

~~¹This model order assumes ~~that the time for service~~ does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

~~²In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

~~³In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such ~~additional~~further documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the ~~Purchased Assets~~Retail APS to the Purchaser.

~~3. THIS COURT ORDERS AND DECLARES~~ that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Receiver's Certificate"), all of ~~the Debtor's~~Retail's right, title and interest in and to the ~~Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]~~Retail APS shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice ~~[NAME]~~Cavanagh dated ~~[DATE]~~June 4, 2024; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and~~ (iii) ~~those Claims listed on Schedule C hereto~~ (all of which are collectively referred to as the "Encumbrances"), which term shall not include ~~the any~~ permitted encumbrances, ~~easements and restrictive covenants listed on Schedule D~~ and the Assumed Liabilities, as defined in the Second Report) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the ~~Purchased Assets~~Retail APS are hereby expunged and discharged as against the ~~Purchased Assets~~Retail APS.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the~~

⁴~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION} of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the ~~Purchased Assets~~Retail APS shall stand in the place and stead of the ~~Purchased Assets~~Retail APS, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the ~~Purchased Assets~~Retail APS with the same priority as they had with respect to the ~~Purchased Assets~~Retail APS immediately prior to the sale⁸, as if the ~~Purchased Assets~~Retail APS had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information~~

⁶Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

⁸This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

~~provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

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

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

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

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

7. ~~9.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-24-00715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

CONSTANTINE ENTERPRISES INC.

~~PLAINTIFF~~
Applicant
~~Plaintiff~~

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents
~~DEFENDANT~~

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

~~Defendant~~

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "Receiver") ~~of the undertaking, property and assets of [DEBTOR] (the "Debtor").~~ "Receiver") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc. ("Retail").

B. Pursuant to an Order of the Court dated **[DATE]**, the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Stalking Horse APA, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "Second Report"), the sale of the Retail APS to Constantine Enterprises Inc. (the "Purchaser")~~, and provided for the vesting in the Purchaser ~~of the Debtor's~~ sale of Retail's right, title and interest in and to the ~~Purchased Assets~~ Retail APS, which vesting is to be effective with respect to the ~~Purchased Assets~~ Retail APS upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the ~~Purchased Assets~~ Retail APS; (ii) that the conditions to Closing as set out in sections ~~4.1, 4.2 and 4.3~~ 4.1, 4.2 and 4.3 of the ~~Sale Agreement~~ Stalking Horse APA have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale Agreement~~ Second Report or the Stalking Horse APA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the ~~Purchased Assets~~ Retail APS payable on the Closing Date pursuant to the ~~Sale Agreement~~ Stalking Horse APA;
2. The conditions to Closing as set out in sections ~~4.1, 4.2 and 4.3~~ 4.1, 4.2 and 4.3 of the ~~Sale Agreement~~ Stalking Horse APA have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ **[TIME]** on _____ **[DATE]**.

- 2 -

~~{NAME OF RECEIVER}~~KSV Restructuring Inc., in its capacity as Receiver of the ~~undertaking, property and assets of~~ ~~{DEBTOR}~~assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity

Per: _____

Name:

Title:

TIME ENTERPRISES INC. -and-

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Court File No.: CV-24

Applicant

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LISTING)

Proceeding commenced at

APPROVAL AND VESTING
(Retail APS)

NORTON ROSE FULBRIGHT
222 Bay Street, Suite 3000, P.O.
Toronto, ON M5K 1E7

Jennifer Stam, LSO#: 46735J
Tel: 416.202.6707
jennifer.stam@nortonrosefulbright.com

Lauren Archibald LSO#: 8715
Tel: 416.278.3787
lauren.archibald@nortonrosefulbright.com

Lawyers for the Receiver

Schedule B—Purchased Assets

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property
(unaffected by the Vesting Order)~~

TAB 5

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 30 TH
)	
JUSTICE CAVANAGH	)	DAY OF AUGUST, 2024

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

**APPROVAL AND VESTING ORDER
(Level 1 Unit)**

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (“**Hazelton**”) and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”, together with Hazelton, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order (i) approving the sale transaction (the “**Transaction**”) contemplated by the Retail APS, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the “**Second Report**”) as amended and assigned to Hazy Holdings Inc. (the “**Purchaser**”) pursuant to an assignment agreement dated as of August 20, 2024 between Constantine Enterprises Inc. (“**CEI**”) and the Purchaser and a consent to assignment agreement dated as of August 20, 2024 among CEI, Hazy, and the Receiver, and vesting in the Purchaser, all of Hazelton’s right, title and interest in and to the assets described in the Retail APS and further

described on Schedule “B” hereto (the “**Level 1 Unit**”); and (ii) sealing the confidential appendix to the Second Report, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, CEI, and **[NAMES OF OTHER PARTIES APPEARING]**, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lauren Archibald sworn August 20, 2024 filed:

THE TRANSACTION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Transaction is hereby approved and the execution of the Retail APS, *nunc pro tunc*, by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such further documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Level 1 Unit to the Purchaser.
3. **THIS COURT ORDERS** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Receiver's Certificate**”), all of Hazelton’s right, title and interest in and to the Level 1 Unit shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule “C” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “D”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Level 1 Unit are hereby expunged and discharged as against the Level 1 Unit.

4. **THIS COURT ORDERS** that upon the registration in the Land Titles Division for the Land Registry Office of Toronto (No. 80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "B" hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "C" hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Level 1 Unit shall stand in the place and stead of the Level 1 Unit, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Level 1 Unit with the same priority as they had with respect to the Level 1 Unit immediately prior to the sale, as if the Level 1 Unit had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

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

the vesting of the Level 1 Unit in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

SEALING

6. **THIS COURT ORDERS** that the confidential appendix to the Second Report be and is hereby sealed until the earlier of (a) completion of the sale of the Level 1 Unit as evidenced by the filing of the Receiver's Certificate; or (b) further order of the Court.

GENERAL

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the "**Court**") dated June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "**Receiver**") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc.

B. Pursuant to an Order of the Court dated **[DATE]**, the Court approved the sale transaction (the "**Transaction**") contemplated by the Retail APS as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**") as amended and assigned to Hazy Holdings Inc. (the "**Purchaser**") pursuant to an assignment agreement dated as of August 20, 2024 between Constantine Enterprises Inc. ("**CEI**") and the Purchaser and a consent to assignment agreement dated as of August 20, 2024 among CEI, Hazy, and the Receiver, and

provided for the vesting in the Purchaser all of Hazelton's right, title and interest in and to the Level 1 Unit, which vesting is to be effective with respect to Level 1 Unit upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for Level 1 Unit; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Second Report or in the Retail APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for Level 1 Unit payable on the Closing Date pursuant to the Retail APS;
2. The conditions of closing set out in Retail APS have been satisfied or waived by the Receiver the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV Restructuring Inc., in its capacity as Receiver of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity

Per: _____
Name:
Title:

Schedule "B" – Level 1 Unit**PIN 21196-0353(LT)**

PART LOT 1, PLAN 687E & PART BLOCK A, PLAN 411 PART 1, 66R32656; SUBJECT TO AN EASEMENT AS IN AT4864056; SUBJECT TO AN EASEMENT AS IN AT5237797; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 1 AND 2, PLAN 687-E DESIGNATED AS PART 1 ON PLAN 66R-31612 AS IN AT5927858; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER PART TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 BEING PART 3, 66R32656 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS ON LEVELS 1 & A AND UNITS 8, 9, 10, 12 & 13, LEVEL A TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; CITY OF TORONTO

PIN 76967-0042 (LT)

UNIT 10, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0043 (LT)

UNIT 11, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0048 (LT)

UNIT 16, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule "C" – Claims to be Deleted and Expunged from Title to Real Property

PIN 21196-0353(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3764542	2014/12/11	Transfer	Hakim Optical Laboratory Limited	Mizrahi (128 Hazelton) Inc.
AT3921041	2015/06/19	Transfer	Ming Chu Pan	Mizrahi (128 Hazelton) Inc.
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	
AT6463361	2023/11/21	Certificate	CEC Mechanical Ltd.	
AT6508164	2024/02/02	Construction Lien	CLM General Enterprises	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6527743	2024/03/08	Construction Lien	385277 Ontario Limited	
AT6531327	2024/03/15	Certificate	CLM General Enterprises	Mizrahi (128 Hazelton) Inc.
AT6571230	2024/05/14	Certificate	CLM General Enterprises	
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0042 (LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.

AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.

AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	
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PIN 76967-0043 (LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.

AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0048 (LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.

AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

**Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PIN 21196-0353(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5576657 is an Application for Absolute Title registered on November 20, 2020 from Mizrahi (128 Hazelton) Inc.
7. Instrument No. 66R32192 is a Plan Reference registered on October 28, 2021.
8. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
9. Instrument No. 66R32656 is a Plan Reference registered on May 27, 2022.
10. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
11. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0042 (LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.

9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0043 (LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0048 (LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the

City of Toronto.

3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-00715321-00CL

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

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(Level 1 Unit)**

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Lawyers for the Receiver

TAB 6

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) ~~WEEKDAY~~FRIDAY, THE #30TH
 JUSTICE CAVANAGH) DAY OF ~~MONTH~~AUGUST, ~~20YR~~2024

CONSTANTINE ENTERPRISES INC.

Applicant

~~BETWEEN:-~~

~~PLAINTIFF~~

Plaintiff

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents
~~DEFENDANT~~
Defendant

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

**APPROVAL AND VESTING ORDER
(Level 1 Unit)**

THIS MOTION, made by ~~[RECEIVER'S NAME]~~KSV Restructuring Inc., in its capacity as the Court-appointed receiver ~~(the "Receiver") of the undertaking, property and assets of~~ ~~[DEBTOR] (the "Debtor")~~ and manager (in such capacity, the "**Receiver**") of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**", together with Hazelton, the "**Debtors**"), or either of them, acquired for, or used in relation to a business

carried on by the Debtors, or either of them, including all proceeds thereof, for an order (i) approving the sale transaction (the "Transaction") contemplated by ~~an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE]~~ the Retail APS, as defined and appended to the Second Report of the Receiver dated [DATE] August 20, 2024 (the "Second Report") as amended and assigned to Hazy Holdings Inc. (the "Purchaser") pursuant to an assignment agreement dated as of August 20, 2024 between Constantine Enterprises Inc. ("CEI") and the Purchaser and a consent to assignment agreement dated as of August 20, 2024 among CEI, Hazy, and the Receiver, and vesting in the Purchaser ~~the Debtor's, all of Hazelton's~~ right, title and interest in and to the assets described in the ~~Sale Agreement (the "Purchased Assets")~~ Retail APS and further described on Schedule "B" hereto (the "Level 1 Unit"); and (ii) sealing the confidential appendix to the Second Report, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, CEI, and [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] Lauren Archibald sworn [DATE] August 20, 2024 filed¹:

THE TRANSACTION

1. THIS COURT ORDERS ~~that the time for service~~ of the Notice of Motion, the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. ~~1. THIS COURT ORDERS AND DECLARES~~ that the Transaction is hereby approved,² and the execution of the ~~Sale Agreement~~ Retail APS, nunc pro tunc, by the Receiver³ is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary.

¹ This model order assumes ~~that the time for service~~ does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

² In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

³ In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

The Receiver is hereby authorized and directed to take such additional steps and execute such ~~additional~~further documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the ~~Purchased Assets~~Level 1 Unit to the Purchaser.

3. ~~2. THIS COURT ORDERS AND DECLARES~~ that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Receiver's Certificate"), all of ~~the Debtor's~~Hazelton's right, title and interest in and to the ~~Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]~~⁴Level 1 Unit shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice [NAME] Cavanagh dated [DATE] June 4, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the ~~Purchased Assets~~Level 1 Unit are hereby expunged and discharged as against the ~~Purchased Assets~~Level 1 Unit.

4. ~~3. THIS COURT ORDERS~~ that upon the registration in the Land Titles Division for the Land Registry Office ~~for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver~~[Land Titles Division of {LOCATION} of Toronto (No. 80)] of an Application for Vesting Order in the

⁴~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "B" hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "C" hereto.

5. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the ~~Purchased Assets~~ Level 1 Unit shall stand in the place and stead of the ~~Purchased Assets~~ Level 1 Unit, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the ~~Purchased Assets~~ Level 1 Unit with the same priority as they had with respect to the ~~Purchased Assets~~ Level 1 Unit immediately prior to the sale⁸, as if the ~~Purchased Assets~~ Level 1 Unit had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

⁶Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

⁸This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

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

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

the vesting of the ~~Purchased Assets~~Level 1 Unit in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtorss and shall not be void or voidable by creditors of the Debtorss, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the ~~*Bankruptcy and Insolvency Act (Canada)*~~BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

SEALING

6. ~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act (Ontario)*.~~ that the confidential appendix to the Second Report be and is hereby sealed until the earlier of (a) completion of the sale of the Level 1 Unit as evidenced by the filing of the Receiver's Certificate; or (b) further order of the Court.

GENERAL

8. ~~9. THIS COURT HEREBY REQUESTS~~ the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of

this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-24-00715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

CONSTANTINE ENTERPRISES INC.

~~PLAINTIFF~~
Applicant
~~Plaintiff~~

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents
~~DEFENDANT~~

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

~~Defendant~~

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "Receiver") ~~of the undertaking, property and assets of [DEBTOR] (the "Debtor").~~ "Receiver" of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("Hazelton") and Mizrahi 128 Hazelton Retail Inc.

B. Pursuant to an Order of the Court dated [DATE], the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")~~ sale transaction (the "Transaction") contemplated by the Retail APS as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "Second Report") as amended and assigned to Hazy Holdings Inc. (the "Purchaser") pursuant to an assignment agreement dated as of August 20, 2024 between Constantine Enterprises Inc. ("CEI") and the Purchaser and a consent to assignment agreement dated as of August 20, 2024 among CEI, Hazy, and the Receiver, and provided for the vesting in the Purchaser of the Debtor's all of Hazelton's right, title and interest in and to the Purchased Assets Level 1 Unit, which vesting is to be effective with respect to the Purchased Assets Level 1 Unit upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 1 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser Level 1 Unit; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale Agreement~~ Second Report or in the Retail APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for ~~the Purchased Assets Level 1 Unit~~ payable on the Closing Date pursuant to the ~~Sale Agreement~~ Retail APS;
2. The conditions ~~to of C~~ closing as set out in ~~section 1 of the Sale Agreement~~ Retail APS have been satisfied or waived by the Receiver ~~and~~ the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

- 2 -

~~{NAME OF RECEIVER}~~KSV Restructuring Inc., in its capacity as Receiver of the ~~undertaking, property and assets of~~ ~~{DEBTOR}~~assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule "B" – ~~Purchased Assets~~ Level 1 Unit**PIN 21196-0353(LT)**

PART LOT 1, PLAN 687E & PART BLOCK A, PLAN 411 PART 1, 66R32656; SUBJECT TO AN EASEMENT AS IN AT4864056; SUBJECT TO AN EASEMENT AS IN AT5237797; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 1 AND 2, PLAN 687-E DESIGNATED AS PART 1 ON PLAN 66R-31612 AS IN AT5927858; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER PART TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 BEING PART 3, 66R32656 AS IN AT6281433; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS ON LEVELS 1 & A AND UNITS 8, 9, 10, 12 & 13, LEVEL A TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AS IN AT6281433; CITY OF TORONTO

PIN 76967-0042 (LT)

UNIT 10, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0043 (LT)

UNIT 11, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0048 (LT)

UNIT 16, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule "C" – Claims to be Deleted and Expunged from Title to Real Property

PIN 21196-0353(LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3764542	2014/12/11	Transfer	Hakim Optical Laboratory Limited	Mizrahi (128 Hazelton) Inc.
AT3921041	2015/06/19	Transfer	Ming Chu Pan	Mizrahi (128 Hazelton) Inc.
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	
AT6463361	2023/11/21	Certificate	CEC Mechanical Ltd.	
AT6508164	2024/02/02	Construction Lien	CLM General Enterprises	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6527743	2024/03/08	Construction Lien	385277 Ontario Limited	
AT6531327	2024/03/15	Certificate	CLM General Enterprises	Mizrahi (128 Hazelton) Inc.
AT6571230	2024/05/14	Certificate	CLM General Enterprises	
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0042 (LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.

AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings	

			<u>Inc.</u>	
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PIN 76967-0043 (LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
<u>AT3921042</u>	<u>2015/06/19</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT3921043</u>	<u>2015/06/19</u>	<u>No Assign Rent Gen</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT4349872</u>	<u>2016/09/22</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4349873</u>	<u>2016/09/22</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4349874</u>	<u>2016/09/22</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4448519</u>	<u>2017/01/04</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>City of Toronto</u>
<u>AT4448520</u>	<u>2017/01/04</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>City of Toronto</u>
<u>AT4608655</u>	<u>2017/06/27</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT4608656</u>	<u>2017/06/27</u>	<u>No Assign Rent Gen</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT4608657</u>	<u>2017/06/27</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT4608658</u>	<u>2017/06/27</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT5646954</u>	<u>2021/02/10</u>	<u>Notice</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT5646956</u>	<u>2021/02/10</u>	<u>Postponement</u>	<u>Aviva Insurance Company of</u>	<u>DUCA Financial Services Credit</u>

			Canada	Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0048 (LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.

AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

**Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PIN 21196-0353(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5576657 is an Application for Absolute Title registered on November 20, 2020 from Mizrahi (128 Hazelton) Inc.
7. Instrument No. 66R32192 is a Plan Reference registered on October 28, 2021.
8. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
9. Instrument No. 66R32656 is a Plan Reference registered on May 27, 2022.
10. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
11. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0042 (LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0043 (LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
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8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0048 (LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-00715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER
(Level 1 Unit)

NORTON ROSE FULBRIGHT CANADA LLP
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Toronto, ON M5K 1E7

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Lawyers for the Receiver

TAB 7

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 30 TH
)	
JUSTICE CAVANAGH	)	DAY OF AUGUST, 2024

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

**APPROVAL AND VESTING ORDER
(Second Floor Units)**

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (“**Hazelton**”) and Mizrahi 128 Hazelton Retail Inc. (“**Retail**”, together with Hazelton, the “**Debtors**”), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order approving the sale transactions (the “**Second Floor Transactions**”) contemplated by the Second Floor APAs, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the “**Second Report**”), and vesting in Constantine Enterprises Inc. (the “**Purchaser**”) all of Hazelton’s right, title and interest in and to the assets described in the Second Floor APAs and further described in Schedule “B” hereto (the “**Second Floor Units**”), was heard this day was heard this day by Zoom videoconference.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, the Purchaser, and **[NAMES OF THE OTHER PARTIES APPEARING]**, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lauren Archibald sworn August 20, 2024 filed:

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

2. **THIS COURT ORDERS** that the Second Floor Transactions are hereby approved. The Receiver is hereby authorized and directed to take such additional steps and execute such documents as may be necessary or desirable for the completion of the Second Floor Transactions and for the conveyance of the Second Floor Units to the Purchaser.

3. **THIS COURT ORDERS** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of Hazelton's right, title and interest in and to the Second Floor Units shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Second Floor Units are hereby expunged and discharged as against the Second Floor Units.

4. **THIS COURT ORDERS** that upon the registration in the Land Titles Division for the Land Registry Office of Toronto (No. 80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* (Ontario) and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in

Schedule "B" hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "C" hereto.

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

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

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

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

the vesting of the Second Floor Units in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as

may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the "**Court**") dated June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "**Receiver**") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc.

B. Pursuant to an Order of the Court dated [**DATE**], the Court approved the sale transactions (the "**Second Floor Transactions**") contemplated by the Second Floor APAs, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**"), and provided for the vesting in Constantine Enterprises Inc. (the "**Purchaser**") all of Hazelton's right, title and interest in and to the Second Floor Units, which vesting is to be effective with respect to the Second Floor Units upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the conditions of closing under the Second Floor APAs have been

satisfied or waived by the Receiver and the Purchaser; and (ii) the Second Floor Transactions have been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Second Report or in the Second Floor APAs.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for each of the Second Floor Units payable on the Closing Date pursuant to the Second Floor APAs;
2. The conditions of closing set out in the Second Floor APAs have been satisfied or waived by the Receiver the Purchaser; and
3. The Second Floor Transactions have been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV Restructuring Inc., in its capacity as Receiver of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity

Per: _____
Name:
Title:

Schedule "B" – The Second Floor Units**Unit 201****PIN 76967-0001(LT)**

UNIT 1, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0024(LT)

UNIT 4, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0025(LT)

UNIT 5, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0026(LT)

UNIT 6, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0073(LT)

UNIT 25, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Suite 204**PIN 76967-0004(LT)**

UNIT 4, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0027(LT)

UNIT 7, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0076(LT)

UNIT 28, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule "C" – Claims to be Deleted and Expunged from Title to Real Property

Unit 201

PIN 76967-0001(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.

AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	
AT6463361	2023/09/21	Certificate	CEC Mechanical Ltd.	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0024(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.

AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.

PIN 76967-0025(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.

AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0026(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto

AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0073(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada

AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

Suite 204

PIN 76967-0004(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	

AT6463361	2023/09/21	Certificate	CEC Mechanical Ltd.	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0027(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.

AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0076(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.

AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

**Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

Unit 201

PIN 76967-0001(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0024(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.

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5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0025(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
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7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.

10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0026(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
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7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
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9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0073(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017

by the City of Toronto.

3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

Suite 204

PIN 76967-0004(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
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7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.

8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
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11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0027(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard

Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0076(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

CONSTANTINE ENTERPRISES INC. -and- MIZRAHI (128 HAZELTON INC.) AND
Applicant MIZRAHI 128 HAZELTON RETAIL INC.
Respondents

Court File No.: CV-24-00715321-00CL

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

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(Second Floor Units)**

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000, P.O. Box 53
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Lawyers for the Receiver

TAB 8

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) ~~WEEKDAY~~FRIDAY, THE #30TH
 JUSTICE CAVANAGH) DAY OF ~~MONTH~~AUGUST, ~~20YR~~2024

CONSTANTINE ENTERPRISES INC.

Applicant

~~BETWEEN:-~~

~~PLAINTIFF~~

Plaintiff

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

~~DEFENDANT~~

Defendant

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

**APPROVAL AND VESTING ORDER
(Second Floor Units)**

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets~~

~~described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.~~

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of (a) certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**", together with Hazelton, the "**Debtors**"), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order approving the sale transactions (the "**Second Floor Transactions**") contemplated by the Second Floor APAs, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**"), and vesting in Constantine Enterprises Inc. (the "**Purchaser**") all of Hazelton's right, title and interest in and to the assets described in the Second Floor APAs and further described in Schedule "B" hereto (the "**Second Floor Units**"), was heard this day was heard this day by Zoom videoconference.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, the Purchaser, and [NAMES OF THE OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] Lauren Archibald sworn [DATE] August 20, 2024 filed¹:

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

2. ~~1. THIS COURT ORDERS AND DECLARES~~ that the Second Floor Transactions isare hereby approved,²~~and the execution of the Sale Agreement by the Receiver³ is hereby authorized~~

¹~~This model order assumes *that the time for service* does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

²~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor~~

~~and approved, with such minor amendments as the Receiver may deem necessary.~~ The Receiver is hereby authorized and directed to take such additional steps and execute such ~~additional~~ documents as may be necessary or desirable for the completion of the Second Floor Transactions and for the conveyance of the ~~Purchased Assets~~Second Floor Units to the Purchaser.

3. ~~2. THIS COURT ORDERS AND DECLARES~~ that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Receiver's Certificate"), all of ~~the Debtor's Hazelton's~~ right, title and interest in and to the ~~Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]~~⁴Second Floor Units shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice ~~[NAME]~~Cavanagh dated ~~[DATE]~~June 4, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances"), which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the ~~Purchased~~

~~Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

~~⁴To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

~~⁵The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~Assets~~Second Floor Units are hereby expunged and discharged as against the ~~Purchased~~
~~Assets~~Second Floor Units.

4. ~~3.~~ **THIS COURT ORDERS** that upon the registration in the Land Titles Division for the Land Registry Office ~~for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver~~~~[[Land Titles Division of {LOCATION}] of Toronto (No. 80)~~ of an Application for Vesting Order in the form prescribed by the *Land Titles Act (Ontario)* and/or the *Land Registration Reform Act*⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "B" hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "C" hereto.

5. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the ~~Purchased Assets~~Second Floor Units shall stand in the place and stead of the ~~Purchased Assets~~Second Floor Units, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the ~~Purchased Assets~~Second Floor Units with the same priority as they had with respect to the ~~Purchased Assets~~Second Floor Units immediately prior to the sale⁸, as if the ~~Purchased Assets~~Second Floor Units had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

⁶~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

⁷~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁸~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

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

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

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

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

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

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requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's CertificateCourt File No. CV-24-00715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

CONSTANTINE ENTERPRISES INC.

~~PLAINTIFF~~
Applicant
~~Plaintiff~~

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents
~~DEFENDANT~~

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

~~Defendant~~

RECEIVER'S CERTIFICATE**RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "Receiver") ~~of the undertaking, property and assets of [DEBTOR] (the "Debtor").~~ "Receiver") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("Hazelton") and Mizrahi 128 Hazelton Retail Inc.

- 2 -

B. Pursuant to an Order of the Court dated [DATE], the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")~~ sale transactions (the "Second Floor Transactions") contemplated by the Second Floor APAs, as defined and appended to the Second Report of the Receiver dated August 20, 2024 (the "Second Report"), and provided for the vesting in Constantine Enterprises Inc. (the "Purchaser of the Debtor's") ~~all of Hazelton's~~ right, title and interest in and to the ~~Purchased Assets~~ Second Floor Units, which vesting is to be effective with respect to the ~~Purchased Assets~~ Second Floor Units upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the ~~payment by the Purchaser of the Purchase Price for the Purchased Assets;~~ (ii) ~~that the conditions to Closing as set out in section ● of the Sale Agreement~~ of closing under the Second Floor APAs have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Second Floor Transactions ~~has~~ have been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale Agreement~~ Second Report or in the Second Floor APAs.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for ~~the Purchased Assets~~ each of the Second Floor Units payable on the Closing Date pursuant to the ~~Sale Agreement~~ Second Floor APAs;
2. The conditions ~~to of C~~ of C ~~closing as~~ closing as set out in ~~section ● of the Sale Agreement~~ the Second Floor APAs have been satisfied or waived by the Receiver ~~and~~ the Purchaser; and
3. The Second Floor Transactions ~~has~~ have been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

- 2 -

~~{NAME OF RECEIVER}~~KSV Restructuring Inc., in its capacity as Receiver of the ~~undertaking, property and assets of~~ ~~{DEBTOR}~~assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule "B" – ~~Purchased Assets~~ The Second Floor Units**Unit 201****PIN 76967-0001(LT)**

UNIT 1, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0024(LT)

UNIT 4, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0025(LT)

UNIT 5, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0026(LT)

UNIT 6, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0073(LT)

UNIT 25, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Suite 204**PIN 76967-0004(LT)**

UNIT 4, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0027(LT)

UNIT 7, LEVEL A, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0076(LT)

UNIT 28, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule "C" – Claims to be Deleted and Expunged from Title to Real Property

Unit 201PIN 76967-0001(LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton)	Aviva Insurance

			Inc.	Company of Canada
AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	
AT6463361	2023/09/21	Certificate	CEC Mechanical Ltd.	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

[PIN 76967-0024\(LT\)](#)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance	DUCA Financial Services Credit Union

			<u>Company of Canada</u>	<u>Ltd.</u>
<u>AT5646954</u>	<u>2021/02/10</u>	<u>Notice</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT5646956</u>	<u>2021/02/10</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT6244711</u>	<u>2022/12/12</u>	<u>Notice</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT6511388</u>	<u>2024/02/09</u>	<u>Transfer of Charge</u>	<u>DUCA Financial Services Credit Union Ltd.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT6511389</u>	<u>2024/02/09</u>	<u>No Assign Rent Gen</u>	<u>DUCA Financial Services Credit Union Ltd.</u>	<u>Constantine Enterprises Inc.</u>

PIN

76967-0025(LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
<u>AT3921042</u>	<u>2015/06/19</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT3921043</u>	<u>2015/06/19</u>	<u>No Assign Rent Gen</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT4349872</u>	<u>2016/09/22</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4349873</u>	<u>2016/09/22</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4349874</u>	<u>2016/09/22</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4448519</u>	<u>2017/01/04</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>City of Toronto</u>
<u>AT4448520</u>	<u>2017/01/04</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>City of Toronto</u>
<u>AT4608655</u>	<u>2017/06/27</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT4608656</u>	<u>2017/06/27</u>	<u>No Assign Rent Gen</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>

AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0026(LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto

AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0073(LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada

AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

[Suite 204](#)

[PIN 76967-0004\(LT\)](#)

Instrument	Date	Instrument	Parties From	Parties To
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<u>Number</u>		<u>Type</u>		
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	
AT6463361	2023/09/21	Certificate	CEC Mechanical Ltd.	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union	Constantine Enterprises Inc.

			Ltd.	
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

[PIN 76967-0027\(LT\)](#)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union

				Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0076(LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union

				<u>Ltd.</u>
<u>AT5646954</u>	<u>2021/02/10</u>	<u>Notice</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT5646956</u>	<u>2021/02/10</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT6244711</u>	<u>2022/12/12</u>	<u>Notice</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT6511388</u>	<u>2024/02/09</u>	<u>Transfer of Charge</u>	<u>DUCA Financial Services Credit Union Ltd.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT6511389</u>	<u>2024/02/09</u>	<u>No Assign Rent Gen</u>	<u>DUCA Financial Services Credit Union Ltd.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT6579493</u>	<u>2024/05/28</u>	<u>Notice</u>	<u>Barakah Holdings Inc.</u>	

**Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

Unit 201

PIN 76967-0001(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0024(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.

4. [Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi \(128 Hazelton\) Inc. to Enbridge Gas Inc.](#)
5. [Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.](#)
6. [Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.](#)
7. [Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.](#)
8. [Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi \(128 Hazelton\) Inc.](#)
9. [Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi \(128 Hazelton\) Inc.](#)
10. [Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.](#)
11. [Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.](#)
12. [Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.](#)
13. [Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi \(128 Hazelton\) Inc.](#)

PIN 76967-0025(LT)

1. [Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.](#)
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3. [Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi \(128 Hazelton\) Inc. to Rogers Communications Inc.](#)
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12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0026(LT)

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PIN 76967-0073(LT)

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12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

Suite 204

PIN 76967-0004(LT)

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12. [Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.](#)
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PIN 76967-0027(LT)

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12. [Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.](#)
13. [Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding](#)

Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0076(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
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CONSTANTINE ENTERPRISES INC. -and- MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Court File No.: CV-24-00715321-00CL

Applicant

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER
(Second Floor Units)

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000, P.O. Box 53
Toronto, ON M5K 1E7

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Lawyers for the Receiver

TAB 9

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 30 TH
)	
JUSTICE CAVANAGH	)	DAY OF AUGUST, 2024

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

**APPROVAL AND VESTING ORDER
(Unit 403)**

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the **“Receiver”**) of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. (**“Hazelton”**) and Mizrahi 128 Hazelton Retail Inc. (**“Retail”**, together with Hazelton, the **“Debtors”**), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order approving the sale transaction (the **“Transaction”**) contemplated by the 403 APS, the 403 Assignment Agreement, the 403 Consent and Amendment Agreement, and the 2nd Unit 403 Amending Agreement, as each term is defined in the Second Report of the Receiver dated August 20, 2024 (the **“Second Report”**), and vesting all of Hazelton’s right, title, and interest in and to (a) the assets described in the 403 APS and further described on Schedule “B” hereto (the **“Purchased Assets”**) in and to Fawzia Ahmed Gashut (the **“Purchaser”**); and (b) the parking spot identified under Schedule

“C” hereto (the “**Assigned Parking Spot**”, and together with the Purchased Assets, “**Unit 403**”) in and to Constantine Enterprises Inc. (“**CEI**”), was heard this day by Zoom videoconference.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, CEI, and **[NAMES OF THE OTHER PARTIES APPEARING]**, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lauren Archibald sworn August 20, 2024 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Transaction is hereby approved. The Receiver is hereby authorized and directed to take such additional steps and execute such documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser and the Assigned Parking Spot to CEI.
3. **THIS COURT ORDERS** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Receiver's Certificate**”), all of Hazelton’s right, title, and interest in and to:
 - (a) the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule “D”

hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “E”); and

- (b) the Assigned Parking Spot shall vest in CEI free and clear of and from all Claims and Encumbrances;

and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to Unit 403 are hereby expunged and discharged as against Unit 403.

4. **THIS COURT ORDERS** that upon the registration in the Land Titles Division for the Land Registry Office of Toronto (No. 80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter:

- (a) the Purchaser as the owner of the subject real property identified in Schedule “B” (the “**Purchaser’s Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Purchaser’s Real Property all of the Claims listed in Schedule “D” hereto; and
- (b) CEI as the owner of the subject real property identified in Schedule “C” (the “**CEI’s Real Property**”), and together with the Purchaser’s Real Property, the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the CEI’s Real Property all of the Claims listed in Schedule “D” hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of Unit 403 shall stand in the place and stead of Unit 403, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of Unit 403 with the same priority as they had with

respect to Unit 403 immediately prior to the sale, as if Unit 403 had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

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

the vesting of the Purchased Assets in the Purchaser, and the Assigned Parking Spot in CEI, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

CONSTANTINE ENTERPRISES INC.

Applicant

- AND -

**MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.**

Respondents

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

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (the "**Court**") dated June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "**Receiver**") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc.

B. Pursuant to an Order of the Court dated **[DATE]**, the Court approved the sale transaction (the "**Transaction**") contemplated by the 403 APS, the 403 Assignment Agreement, the 403 Consent and Amendment Agreement, and the 2nd Unit 403 Amending Agreement, as each term is defined in the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**"), and provided for (i) the vesting in Fawzia Ahmed Gashut (the "**Purchaser**") all of Hazelton's right,

- 2 -

title and interest in and to the Purchased Assets; and (ii) the vesting in Constantine Enterprises Inc. all of Hazelton's right, title and interest in and to the Assigned Parking Spot.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Second Report or the 403 APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for Unit 403 payable on the Closing Date pursuant to the 403 APS;
2. The conditions of closing set out in the 403 APS have been satisfied or waived by the Receiver the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**KSV Restructuring Inc., in its capacity as
Receiver of the assets, undertakings and
properties of Mizrahi (128 Hazelton) Inc. and
Mizrahi 128 Hazelton Retail Inc., and not in
its personal capacity**

Per: _____
Name:
Title:

Schedule "B" – Purchased Assets**PIN 76967-0011(LT)**

UNIT 3, LEVEL 4, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0041(LT)

UNIT 9, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0065(LT)

UNIT 17, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule "C" – Assigned Parking Spot**PIN 76967-0034(LT)**

UNIT 2, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule "D" – Claims to be Deleted and Expunged from Title to Real Property

PIN 76967-0011(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada

AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	
AT6463361	2023/09/21	Certificate	CEC Mechanical Ltd.	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0034(LT)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
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AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.

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AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
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AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

**Schedule "E" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PIN 76967-0011(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

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CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

Court File No.: CV-24-00715321-00CL

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

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(Unit 403)**

NORTON ROSE FULBRIGHT CANADA LLP
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Toronto, ON M5K 1E7

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Lawyers for the Receiver

TAB 10

Court File No.: CV-24-00715321-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) ~~WEEKDAY~~FRIDAY, THE #30TH
 JUSTICE CAVANAGH)
) DAY OF ~~MONTH~~AUGUST, ~~20~~YR2024

CONSTANTINE ENTERPRISES INC.

Applicant

~~BETWEEN:-~~

~~PLAINTIFF~~

~~Plaintiff~~

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.

Respondents

~~DEFENDANT~~

~~Defendant~~

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

**APPROVAL AND VESTING ORDER
(Unit 403)**

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets~~

~~described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.~~

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("**Hazelton**") and Mizrahi 128 Hazelton Retail Inc. ("**Retail**", together with Hazelton, the "**Debtors**"), or either of them, acquired for, or used in relation to a business carried on by the Debtors, or either of them, including all proceeds thereof, for an order approving the sale transaction (the "**Transaction**") contemplated by the 403 APS, the 403 Assignment Agreement, the 403 Consent and Amendment Agreement, and the 2nd Unit 403 Amending Agreement, as each term is defined in the Second Report of the Receiver dated August 20, 2024 (the "**Second Report**"), and vesting all of Hazelton's right, title, and interest in and to (a) the assets described in the 403 APS and further described on Schedule "B" hereto (the "**Purchased Assets**") in and to Fawzia Ahmed Gashut (the "**Purchaser**"); and (b) the parking spot identified under Schedule "C" hereto (the "**Assigned Parking Spot**", and together with the Purchased Assets, "**Unit 403**") in and to Constantine Enterprises Inc. ("**CEI**"), was heard this day by Zoom videoconference.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, CEI, and [NAMES OF THE OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] Lauren Archibald sworn [DATE] August 20, 2024 filed¹:

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

2. ~~1. THIS COURT ORDERS AND DECLARES~~ that the Transaction is hereby approved,² ~~and the execution of the Sale Agreement by the Receiver³ is hereby authorized and~~

¹ This model order assumes *that the time for service* does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

² In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

~~approved, with such minor amendments as the Receiver may deem necessary.~~ The Receiver is hereby authorized and directed to take such additional steps and execute such **additional** documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser and the Assigned Parking Spot to CEI.

3. ~~2. THIS COURT ORDERS AND DECLARES~~ that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the **"Receiver's Certificate"**), all of ~~the Debtor's~~ Hazelton's right, title, and interest in and to:

- (a) the Purchased Assets ~~described in the Sale Agreement [and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the **"Claims"**)⁵ including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order of the Honourable Justice [NAME] Cavanagh dated [DATE] June 4, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security*

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵ ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

Act (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule ~~C~~"D" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule ~~D~~"E");
and

- (b) the Assigned Parking Spot shall vest in CEI free and clear of and from all Claims and Encumbrances;

and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to ~~the Purchased Assets~~Unit 403 are hereby expunged and discharged as against ~~the Purchased Assets~~Unit 403.

4. THIS COURT ORDERS that upon the registration in the Land Titles Division for the Land Registry Office of Toronto (No. 80) of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act, the Land Registrar is hereby directed to enter:

- (a) ~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~⁶; ~~the Land Registrar is hereby directed to enter~~ the Purchaser as the owner of the subject real property identified in Schedule "B hereto" (the

⁶Elect the language appropriate to the land registry system (Registry vs. Land Titles).

“Purchaser’s Real Property”) in fee simple, and is hereby directed to delete and expunge from title to the Purchaser’s Real Property all of the Claims listed in Schedule ~~“D”~~ hereto; and

(b) CEI as the owner of the subject real property identified in Schedule “C” (the “CEI’s Real Property”, and together with the Purchaser’s Real Property, the “Real Property”) in fee simple, and is hereby directed to delete and expunge from title to the CEI’s Real Property all of the Claims listed in Schedule “D” hereto.

5. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of ~~the Purchased Assets~~ Unit 403 shall stand in the place and stead of ~~the Purchased Assets~~ Unit 403, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of ~~the Purchased Assets~~ Unit 403 with the same priority as they had with respect to ~~the Purchased Assets~~ Unit 403 immediately prior to the sale⁸, as if ~~the Purchased Assets~~ Unit 403 had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose~~

⁷~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁸~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

~~and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

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

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

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

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

8. ~~9.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of

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this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's CertificateCourt File No. CV-24-00715321-00CLONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

CONSTANTINE ENTERPRISES INC.~~PLAINTIFF~~
Applicant
~~Plaintiff~~

- AND -

MIZRAHI (128 HAZELTON) INC. AND
MIZRAHI 128 HAZELTON RETAIL INC.Respondents
~~DEFENDANT~~IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED~~Defendant~~**RECEIVER'S CERTIFICATE**

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ June 4, 2024, KSV Restructuring Inc. was appointed as the receiver (the "Receiver") ~~of the undertaking, property and assets of [DEBTOR] (the "Debtor").~~ "Receiver") of (a) a certain condominium units located at 126 Hazelton Avenue, Toronto, Ontario and 128 Hazelton Avenue, Toronto, Ontario (as legally described in the Receivership Order of the Honourable Justice Cavanagh dated June 4, 2024); and (b) all of the assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. ("Hazelton") and Mizrahi 128 Hazelton Retail Inc.

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B. Pursuant to an Order of the Court dated [DATE], the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")~~ sale transaction (the "Transaction") contemplated by the 403 APS, the 403 Assignment Agreement, the 403 Consent and Amendment Agreement, and the 2nd Unit 403 Amending Agreement, as each term is defined in the Second Report of the Receiver dated August 20, 2024 (the "Second Report"), and provided for (i) the vesting in Fawzia Ahmed Gashut (the "Purchaser of the Debtor's") all of Hazelton's right, title and interest in and to the Purchased Assets, ~~which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section ● of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver;~~ and (ii) the vesting in Constantine Enterprises Inc. all of Hazelton's right, title and interest in and to the Assigned Parking Spot.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale Agreement~~ Second Report or the 403 APS.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for ~~the Purchased Assets~~ Unit 403 payable on the Closing Date pursuant to the ~~Sale Agreement~~ 403 APS;
2. The conditions ~~to of C~~ of C ~~closing as~~ closing set out in ~~section ● of the Sale Agreement~~ 403 APS have been satisfied or waived by the Receiver ~~and~~ the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

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~~{NAME OF RECEIVER}~~KSV Restructuring Inc., in its capacity as Receiver of the ~~undertaking, property and assets of~~ ~~{DEBTOR}~~assets, undertakings and properties of Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule "B" – Purchased Assets**PIN 76967-0011(LT)**

UNIT 3, LEVEL 4, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0041(LT)

UNIT 9, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

PIN 76967-0065(LT)

UNIT 17, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule "C" – Assigned Parking Spot

PIN 76967-0034(LT)

UNIT 2, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2967 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN AT6281433; CITY OF TORONTO

Schedule **E**“**D**” – Claims to be **d**Deleted and **e**Expunged from **t**Title to Real Property

[PIN 76967-0011\(LT\)](#)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
<u>AT3921042</u>	<u>2015/06/19</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT3921043</u>	<u>2015/06/19</u>	<u>No Assign Rent Gen</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Constantine Enterprises Inc.</u>
<u>AT4349872</u>	<u>2016/09/22</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4349873</u>	<u>2016/09/22</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4349874</u>	<u>2016/09/22</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>Aviva Insurance Company of Canada</u>
<u>AT4448519</u>	<u>2017/01/04</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>City of Toronto</u>
<u>AT4448520</u>	<u>2017/01/04</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>City of Toronto</u>
<u>AT4608655</u>	<u>2017/06/27</u>	<u>Charge</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT4608656</u>	<u>2017/06/27</u>	<u>No Assign Rent Gen</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT4608657</u>	<u>2017/06/27</u>	<u>Postponement</u>	<u>Constantine Enterprises Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT4608658</u>	<u>2017/06/27</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT5646954</u>	<u>2021/02/10</u>	<u>Notice</u>	<u>Mizrahi (128 Hazelton) Inc.</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT5646956</u>	<u>2021/02/10</u>	<u>Postponement</u>	<u>Aviva Insurance Company of Canada</u>	<u>DUCA Financial Services Credit Union Ltd.</u>
<u>AT6244711</u>	<u>2022/12/12</u>	<u>Notice</u>	<u>Mizrahi (128</u>	<u>Aviva Insurance</u>

			Hazelton) Inc.	Company of Canada
AT6429473	2023/09/28	Construction Lien	CEC Mechanical Ltd.	
AT6463361	2023/09/21	Certificate	CEC Mechanical Ltd.	
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

[PIN 76967-0034\(LT\)](#)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.

AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

PIN 76967-0041(LT)

<u>Instrument Number</u>	<u>Date</u>	<u>Instrument Type</u>	<u>Parties From</u>	<u>Parties To</u>
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto
AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.

AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

[PIN 76967-0065\(LT\)](#)

Instrument Number	Date	Instrument Type	Parties From	Parties To
AT3921042	2015/06/19	Charge	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT3921043	2015/06/19	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	Constantine Enterprises Inc.
AT4349872	2016/09/22	Charge	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT4349873	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4349874	2016/09/22	Postponement	Constantine Enterprises Inc.	Aviva Insurance Company of Canada
AT4448519	2017/01/04	Postponement	Constantine Enterprises Inc.	City of Toronto

AT4448520	2017/01/04	Postponement	Aviva Insurance Company of Canada	City of Toronto
AT4608655	2017/06/27	Charge	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608656	2017/06/27	No Assign Rent Gen	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT4608657	2017/06/27	Postponement	Constantine Enterprises Inc.	DUCA Financial Services Credit Union Ltd.
AT4608658	2017/06/27	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT5646954	2021/02/10	Notice	Mizrahi (128 Hazelton) Inc.	DUCA Financial Services Credit Union Ltd.
AT5646956	2021/02/10	Postponement	Aviva Insurance Company of Canada	DUCA Financial Services Credit Union Ltd.
AT6244711	2022/12/12	Notice	Mizrahi (128 Hazelton) Inc.	Aviva Insurance Company of Canada
AT6511388	2024/02/09	Transfer of Charge	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6511389	2024/02/09	No Assign Rent Gen	DUCA Financial Services Credit Union Ltd.	Constantine Enterprises Inc.
AT6579493	2024/05/28	Notice	Barakah Holdings Inc.	

**Schedule D“E” – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PIN 76967-0011(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
6. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0034(LT)

1. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
2. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
3. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
4. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi

(128 Hazelton) Inc. to Enbridge Gas Inc.

5. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
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7. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
8. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
9. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.
10. Instrument No. AT6296917 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
11. Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
12. Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.
13. Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi (128 Hazelton) Inc.

PIN 76967-0041(LT)

14. Instrument No. CT782576 is an Agreement registered on April 24, 1986 to the City of Toronto.
15. Instrument No. AT4448518 is a Notice regarding Section 37 Agreement registered on January 4, 2017 by the City of Toronto.
16. Instrument No. AT4864056 is a Transfer Easement registered on May 15, 2018 from Mizrahi (128 Hazelton) Inc. to Rogers Communications Inc.
17. Instrument No. AT5237797 is a Transfer Easement registered on September 16, 2019 from Mizrahi (128 Hazelton) Inc. to Enbridge Gas Inc.
18. Instrument No. AT5380642 is a Certificate of Requirement registered on March 4, 2020 by Her Majesty The Queen In Right Of Ontario As Represented By The Minister Of The Environment, Conservation and Parks.
19. Instrument No. AT5927857 is a Notice pursuant to Section 71 of the Land Titles Act regarding a Site Plan Agreement registered on December 2, 2021 by the City of Toronto.
20. Instrument No. TCP2967 is a Standard Condo Plan registered on February 15, 2023.
21. Instrument No. AT6281433 is Condo Declaration registered on February 15, 2023 by Mizrahi (128 Hazelton) Inc.
22. Instrument No. AT6296916 is a Notice pursuant to Section 71 of the Land Titles Act regarding Shared Facilities Agreement registered on March 16, 2023 by Mizrahi (128 Hazelton) Inc.

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24. [Instrument No. AT6296918 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.](#)
25. [Instrument No. AT6296919 is a Condo ByLaw/98 registered on March 16, 2023 by the Toronto Standard Condominium Corporation No. 2967.](#)
26. [Instrument No. AT6296920 is a Notice pursuant to Section 71 of the Land Titles Act regarding Assignment and Assumption Agreement registered on March 16, 2023 from the Toronto Standard Condominium Corporation No. 2967 to Mizrahi \(128 Hazelton\) Inc.](#)

PIN 76967-0065(LT)

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|

CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.
Respondents

Court File No.: CV-24-00715321-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER
(Unit 403)

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CONSTANTINE ENTERPRISES INC. -and-
Applicant

MIZRAHI (128 HAZELTON INC.) AND
MIZRAHI 128 HAZELTON RETAIL INC.

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**MOTION RECORD
(Sale Approvals)
returnable August 30, 2024**

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