

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

B E T W E E N:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

**and**

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**MOTION RECORD OF THE RECEIVER,  
BDO CANADA LIMITED**

May 31, 2021

**ROBINS APPLEBY LLP**  
Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**  
Email: [dmichaud@robapp.com](mailto:dmichaud@robapp.com)  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**  
Email: [jjamil@robapp.com](mailto:jjamil@robapp.com)  
Tel: (416) 360-3783

Lawyers for the Receiver, BDO Canada  
Limited

**TO: MILLER THOMSON LLP**

Avocats/Lawyers  
40 King Street West  
Suite 5800  
Toronto, ON M5H 3S1

**Alfred Apps LSO No.: 27760I**

Email: aapps@millerthomson.com  
Tel: (416) 595-8199

**Gregory R. Azeff LSO No.: 45324C**

Email: gazeff@millerthomson.com  
Tel: (416) 595-2660

Lawyers for the Defendants

**AND TORYS LLP**

**TO:** 79 Wellington Street West, 30<sup>th</sup> Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**Adam M. Slavens LSO No.: 54433J**

Email: aslavens@torys.com  
Tel: (416) 865-7333

Lawyers for Tarion Warranty Corporation

**AND BDO CANADA LIMITED**

**TO:** Suite 500-20 Wellington Street East  
Toronto, ON M5E 1C5

**Gary Cerrato**

Email: gcerrato@bdo.ca  
Tel: (416) 865-0210

**Josie Parisi**

Email: jparisi@bdo.ca  
Tel: (416) 865-0210

Court Appointed Receiver, BDO Canada Limited

**AND RAR LITIGATION LAWYERS**

**TO:** 505-1 West Pearce Street  
Richmond Hill, ON L4B 3K3

**Samantha Wu LSO No.: 60664W**

Email: sam@rarlitigation.com

Tel: (905) 731-8100 ext. 212

Lawyers for KAPP Infrastructure Inc.

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**TAB 1**

Court File No.: CV-20-00652174-00CL

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

B E T W E E N:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

**and**

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**NOTICE OF MOTION**

BDO Canada Limited ("**BDO**"), in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the assets, undertakings and properties of 10268054 Canada Corp. ("**102co**") will make a motion to a judge presiding over the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on the June 8, 2021 at 10:00 a.m., or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The motion is to be heard by videoconference as a result of the Covid-19 pandemic. Please refer to the videoconference details attached at Schedule "A" in order to attend the motion and advise if you intend to attend the motion by emailing Joey Jamil at [jjamil@robapp.com](mailto:jjamil@robapp.com).

**THE MOTION IS FOR:**

1. An Order, substantially in the form attached hereto as Tab 3 of the Motion Record, for the following relief:

- (a) if necessary, the abridgement of the time for service of the Notice of Motion and Motion Record herein and dispensing of service thereof;

- (b) the approval of the sale transaction contemplated by an accepted offer between the Receiver and 12931109 Canada Inc. (the "**Purchaser**") made as of May 17, 2021 (the "**Sale Agreement**"), in respect of the sale of the Purchased Assets (as defined in the Sale Agreement) (the "**Transaction**"); and
  - (c) vesting in the Purchaser, 102co's right, title and interest in and to the Purchased Assets.
2. An Order, substantially in the form attached hereto as Tab 4 of the Motion Record, for the following relief:

- (a) the approval of the Receiver's activities described in the Second Report of the Receiver dated May 31, 2021 (the "**Receiver's Second Report**");
- (b) sealing the confidential appendices to the Receiver's Second Report (the "**Confidential Appendices**");
- (c) the approval of the Receiver's disclaimer of agreements of purchase and sale of Unit Purchasers (defined below) as described in the Receiver's Second Report;
- (d) the approval of the protocol for the return of deposits in respect of the agreements of purchase and sale of Unit Purchasers;
- (e) the approval of the Receiver's Interim Receipts and Disbursements;
- (f) the approval of the Receiver's fees and disbursements and those of its counsel as set forth in the Receiver's Second Report;
- (g) the approval of the proposed distributions as set out in paragraphs 44-54 of the Receiver's Second Report (the "**Proposed Distributions**"); and
- (h) such further and other relief as required in the circumstances and this Honorable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

1. Pursuant to the terms of the Order of Justice Dietrich dated January 14, 2021 (the "**Receivership Order**"), BDO was appointed as Receiver over the assets, undertakings and properties of 102co pursuant to section 243 of the *Bankruptcy and Insolvency Act* ("**BIA**") and section 101 of the *Courts of Justice Act* ("**CJA**").

2. 102co is a corporation incorporated pursuant to the laws of Canada with a registered office in Toronto. 102co is a residential condominium developer that intended to develop a 42-unit condominium building (the "**Project**") located at the address municipally known as 135 Mandrake Street, Ajax, Ontario (the "**Property**"). 102co is the owner of the Property.
3. Pursuant to the Receivership Order, the Receiver was authorized and directed to market and sell the Property in accordance with an approved sales process, including advertising and soliciting offers in respect of the Property and negotiating terms and conditions of sale as the Receiver determined to be appropriate.

### **The Approval of the Transaction**

4. As a result of the sales process initiated by the Receiver, it received an offer to purchase the Property from the Purchaser which the Receiver has accepted subject to the approval of this Honorable Court.
5. The Purchaser is related to 102co as it is a company incorporated by a new investor group which includes the principal of 102co, Isaac Olowolafe ("**Olowolafe**").
6. The purchase price for the transaction is comprised of a cash component to be paid to the Receiver on closing as well the Purchaser granting a third charge to Centurion Mortgage Capital Corporation ("**Centurion**") to secure any shortfall to be incurred by Centurion on its first mortgage currently registered against the Property.
7. The Receiver recommends the approval of the Sale Agreement for, *inter alia*, the following reasons:



- (a) the Property has been fully exposed to the market in accordance with the Court approved sales process;
  - (b) it is the Receiver's view that the purchase price under the Sale Agreement is commercially reasonable and represents the maximum possible price in these circumstances; and
  - (c) the first mortgagee on the Property, Centurion, supports the Transaction.
8. For the additional reasons set out in the Receiver's Second Report, the Receiver recommends that the acceptance of the Sale Agreement be approved as it represents the best recovery possible in the circumstances.

### **Sealing of the Confidential Appendices**

9. The Receiver is requesting that the Court seal the Confidential Appendices pending the completion of the Transaction or further order of this Honourable Court.
10. The Confidential Appendices should be sealed as its contents contain commercially sensitive financial information which could have a negative impact on the market for the Property should the sale of the Property to the Purchaser not close.
11. The salutary effects of sealing the Confidential Appendices outweighs any deleterious effects.

### **Disclaim Purchase Agreements and Permit the Return of Deposits**

12. Prior to this proceeding, 102co had entered into a number of agreements of purchase and sale with individuals and corporations (collectively the "**Unit Purchasers**") in respect of units in the Project that were to be built on the Property. Each of the Unit Purchasers paid a deposit to 102co, and in accordance with these agreements of purchase and sale, all

such deposits are being held by the escrow agent, Miller Thomson LLP, pursuant to the Deposit Trust Agreement between 102co, Miller Thomson LLP and Westmount Guarantee Services Inc. (the “**Surety**”). As at the date of the Receivership Order, Miller Thomson LLP was holding \$ 95,000.00 pursuant to the Deposit Trust Agreement.

13. The Deposit Trust Agreement permits the return of the deposits to the Unit Purchasers if their agreements of purchase and sale are terminated. As the agreements of purchase and sale of the Unit Purchasers will not be assigned as part of the Sale Agreement, there is no possibility that they could be completed by 102co or the Receiver. None of the Unit Purchasers has an interest in the Property as reflected by the parcel register. The Receiver believes that it is appropriate at this time to disclaim the Unit Purchasers’ agreements of purchase and sale to permit the return of the deposits to the Unit Purchasers, and seeks an Order approving the disclaimer of such agreements of purchase and sale.
14. In order to ensure the orderly return of the deposits, the Receiver, through its counsel and in conjunction with counsel to the Surety and Tarion Warranty Corporation, prepared a deposit protocol to govern the return of the deposits upon the disclaimer of the agreements of purchase and sale of the Unit Purchasers.

### **The Proposed Distributions**

15. The Receiver’s independent counsel has provided to the Receiver a security opinion regarding the security of Centurion as against 102co. The Receiver’s counsel is of the view that, subject to certain standard assumptions and qualifications, Centurion's security is valid and enforceable in accordance with its terms as against the Property.
16. Based on the Receiver’s review, 102co’s indebtedness to Centurion exceeds the cash

component of purchase price for the Transaction. After repayment of the Receiver's borrowings and payment of the Receiver's fees and expenses to date plus a reserve for the Receiver's anticipated fees and expenses to complete the administration of the receivership (collectively, the "**Priority Payments**"), there will be insufficient funds to fully repay Centurion or to make any future distributions in respect of the subsequent mortgages registered against the Property.

17. Accordingly, the Receiver recommends that the Court authorize the Receiver to make the Proposed Distributions.

#### **Approval of Activities and Fees**

18. In the Receiver's Second Report, the Receiver has included a detailed description of its activities, its fees and disbursements, and the fees and disbursements of its lawyers, Robins Appleby LLP.
19. The Receivership Order provides that the Receiver and its legal counsel are entitled to be paid their reasonable fees and disbursements at their standard rates and charges, and are required to pass their accounts from time to time.
20. The Receiver's activities, statement of receipts and disbursements including the fees and disbursements of its legal counsel, Robins Appleby LLP, as set out in the Receiver's Second Report are fair and reasonable and should to be approved.

#### **Other Grounds**

21. Rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*.
22. Such further and other grounds as the lawyers may advise.

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

- (a) The Receiver's Second Report;
- (b) The Affidavit of Irving Marks sworn May 28, 2021 (the "**Robins Appleby LLP Fee Affidavit**");
- (c) The Affidavit of Josie Parisi sworn May 31, 2021 (the "**BDO Fee Affidavit**"); and
- (d) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

May 31, 2021

**ROBINS APPLEBY LLP**  
Barristers+ Solicitors  
2600 - 120 Adelaide Street West  
Toronto ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**  
Email: dmichaud@robapp.com  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**  
Email: jjamil@robapp.com  
Tel: (416) 360-3783  
Fax: (416) 868-0306

Lawyers for the Receiver, BDO Canada  
Limited

**TO: MILLER THOMSON LLP**

Avocats/Lawyers  
40 King Street West  
Suite 5800  
Toronto, ON M5H 3S1

**Alfred Apps LSO No.: 27760I**

Email: aapps@millerthomson.com  
Tel: (416) 595-8199

**Gregory R. Azeff LSO No.: 45324C**

Email: gazeff@millerthomson.com  
Tel: (416) 595-2660

Lawyers for the Defendants

**AND TORYS LLP**

**TO:** 79 Wellington Street West, 30<sup>th</sup> Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**Adam M. Slavens LSO No.: 54433J**

Email: aslavens@torys.com  
Tel: (416) 865-7333

Lawyers for Tarion Warranty Corporation

**AND BDO CANADA LIMITED**

**TO:** Suite 500-20 Wellington Street East  
Toronto, ON M5E 1C5

**Gary Cerrato**

Email: gcerrato@bdo.ca  
Tel: (416) 865-0210

**Josie Parisi**

Email: jparisi@bdo.ca  
Tel: (416) 865-0210

Court Appointed Receiver, BDO Canada Limited

**AND RAR LITIGATION LAWYERS****TO:** 505-1 West Pearce Street  
Richmond Hill, ON L4B 3K3**Samantha Wu LSO No.: 60664W**

Email: sam@rarlitigation.com

Tel: (905) 731-8100 ext. 212

Lawyers for KAPP Infrastructure Inc.

## SCHEDULE "A" – VIDEOCONFERENCE DETAILS

Topic: Centurion Mortgage Capital Corporation v. 10268054 Canada Corp. et al. - Court File  
No.: CV-20-00652174-00CL - Videoconference before Justice Dunphy  
Time: Jun 8, 2021 10:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87336944583?pwd=UGpzeGFbdUNUelJFVUc3dzVPaWI1QT09>

Meeting ID: 873 3694 4583

Passcode: 907087

One tap mobile

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+16475580588,,87336944583#,,,,\*907087# Canada

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Passcode: 907087

Find your local number: <https://us02web.zoom.us/u/k3PSLwhBM>

**CENTURION MORTGAGE - and-  
CAPITAL CORPORATION**

**10268054 CANADA CORP. ET AL**

*Plaintiff*

*Defendants*

Court FileNo.:CV-20-006521714-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**NOTICE OF MOTION**

**ROBINS APPLEBY LLP**

Barristers+ Solicitors  
2600 - 120 Adelaide Street West  
Toronto ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**

Email: dmichaud@robapp.com  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**

Email: jjamil@robapp.com  
Tel: (416) 360-3783  
Fax: (416) 868-0306

Lawyers for the Receiver, BDO Canada Limited



# TAB 2

Court File No. CV-20-00652174-00CL

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

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

- and -

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Respondent

**SECOND REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY**

**AS COURT APPOINTED RECEIVER**

**May 31, 2021**

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Redacted Summary of Unit Purchaser Deposits	E
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Receiver's Proposed Deposit Protocol	G
Centurion Payout Statement	H
Receiver's Statement of Receipts and Disbursements, dated May 28, 2021	I
Affidavit of Josie Parisi sworn May 31, 2021	J
Affidavit of Irving Marks sworn May 28, 2021	K

## CONFIDENTIAL APPENDICIES

**(TO BE FILED IN OUR SUPPLEMENTARY MOTION RECORD SEPARATELY)**

Bid Summary	1
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## INTRODUCTION AND PURPOSE OF THIS REPORT

1. By Order of the Honourable Madam Justice Dietrich of the Ontario Superior Court of Justice (the “**Court**”) dated January 14, 2021 (the “**Receivership And Sale Process Order**”), BDO Canada Limited (“**BDO**”) was appointed as the Court-appointed receiver (in such capacity, the “**Receiver**”) of all of the assets, undertakings and properties (collectively, the “**Assets**”) of 10268054 Canada Corp., (the “**Company**” or “**102 Corp**”), pursuant to the application made by Centurion Mortgage Capital Corporation (“**Centurion**”).
2. As per the endorsement of Justice Dietrich, of January 14, 2021, the appointment date of the Receiver was deferred by one week to January 21, 2021 to provide the Company with an opportunity to obtain an offer for the sale of the Assets and avoid the appointment of the Receiver. The Company was unable to secure an offer for the Assets and the Receivership Order became effective January 21, 2021 at 12:00 pm.
3. The Company’s principal asset is a partially completed 2 and 3 story, 42 unit stacked condominium townhouse complex development known as 135 Mandrake Street (the “**Project**”). The Project consists of approximately 53,217 square feet of net saleable area plus 55 above grade parking spaces on a 1.05 acre lot (the “**Real Property**”).
4. The Receiver was provided a schedule of deposits received by the Company’s solicitor, Miller Thomson LLP (“**MT**”), that shows 11 condominium units have been pre-sold (the “**Pre-Construction Sales**”) and agreements of purchase and sale have been executed between 102 Corp. and the condominium unit purchasers (the “**MT Deposit Report**”). The MT Deposit Report shows that MT holds \$95,000, in trust in respect of the deposits received from the Pre-Construction Sales.
5. The Receivership and Sale Process Order approved a marketing and sale process for the Assets (the “**Sale Process**”). The Sale Process was described in and attached as an appendix to the Receiver’s report to the Court, dated December 16, 2020 (the “**Prefiling Report**”). A copy of the Prefiling Report, including the appended Sale Process is attached hereto as **Appendix ‘A’**.
6. On February 24, 2021, the Receiver filed its first report to the Court (the “**First Report**”) in support of its motion (returnable March 2, 2021) seeking, *inter alia*, an order requiring the sole officer and director of 102 Corp, Mr. Temitope Olowolafe a.k.a. Isaac Olowolafe (“**Olowolafe**”) to comply with certain terms of the Receivership Order, to provide the books and records of 102 Corp as requested by the Receiver, and to attend to an examination under oath conducted by the Receiver. A copy of the First Report (without appendices) is attached hereto as **Appendix ‘B’**.

7. On March 2, 2021, the Court issued an order granting the relief sought by the Receiver in its First Report (the “**Olowolafe Production Order**”). A copy of the Olowolafe Production Order is attached hereto as **Appendix ‘C’**.
8. The purpose of this Report, dated May 31, 2021 (the “**Second Report**”) is to provide information to the Court with respect to:
  - a. the Receiver’s activities since the date of the First Report;
  - b. the implementation of the Sale Process by the Receiver in order to effect a sale of 102’s right, title and interest in and to the Assets;
  - c. the asset purchase agreement (“**APA**”) dated May 17, 2021 entered into by 12931109 Canada Inc. (the “**12931109 APA**”) and the Receiver with respect to the purchase and sale of the Purchased Assets (as defined in the 12931109 APA);
  - d. the Receiver’s receipts and disbursements from the date of the First Report to May 28, 2021;
  - e. the Receiver’s motion for an Order(s) of this Court:
    - i. approving and authorizing the 12931109 APA and approving the transaction set out therein (the “**Transaction**”);
    - ii. vesting 102 Corp’s right, title and interest, if any, in and to the Purchased Assets free and clear of all encumbrances, subject to the terms of the 12931109 APA;
    - iii. sealing the Bid Summary (as defined herein) and the 12931109 APA which contain commercially sensitive information, which will be filed with the Court as **Confidential Appendices ‘1’ and ‘2’**;
    - iv. approving a distribution of the proceeds of sale representing the Purchase Price (as defined in the 12931109 APA) as set out herein, subject to such holdback as the Receiver may require to complete its mandate and obtain its discharge pursuant to the Receivership Order;
    - v. authorizing the Receiver to disclaim the agreements of purchase and sale with the Unit Purchasers (defined below) (the “**Pre-Construction Sale Agreements**”);

- vi. approving a deposit refund protocol (the “**Deposit Refund Protocol**”) for the return of the deposits to Unit Purchasers in respect of the disclaimed Pre-Construction Sale Agreements;
  - vii. approving the activities of the Receiver, as described in this Second Report; and
  - viii. approving the fees and disbursements of the Receiver and its legal counsel, Robins Appleby LLP (“**Robins Appleby**”) as set out in this Second Report, and to authorize the Receiver to pay all approved and unpaid fees and disbursements.
9. This Second Report, and other all court materials and orders issued and filed in these receivership proceedings are or will be made available on the Receiver’s case website at: <https://www.bdo.ca/en-ca/extranets/10268054canadacorp/> and will remain available on the website for a period of six (6) months following the Receiver’s discharge.

#### **DISCLAIMER**

10. This Second Report is prepared solely for the use of the Court for the purpose of assisting it in making a determination whether to: (i) approve and authorize the 12931109 APA and the Transaction, (ii) approving the disclaimer of the agreements of purchase and sale of the Unit Purchasers, (iii) approving a distribution of funds from the proceeds of sale from the Transaction to Centurion, (iv) approving the actions and conduct of the Receiver as set out in this Second Report, and (v) other ancillary relief being sought.
11. Except as otherwise described in this Second Report:
- a. the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
  - b. the Receiver has not conducted an examination or review of any financial forecast and projections in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
12. Unless otherwise stated, all monetary amounts contained in this Second Report are expressed in Canadian dollars.

## ACTIVITIES OF THE RECEIVER

13. In addition to the activities described in detail in this Second Report, the Receiver has conducted the following activities since the date of the First Report:
- a. attended to concerns of the Town of Ajax with respect to hazardous conditions presented by the degradation of site fencing and the erosion of soil around the perimeter of the site;
  - b. communicated with the Town of Ajax with respect to outstanding property taxes levied against the Real Property (the “**Property Taxes**”);
  - c. engaged a security company to assist with the day-to-day monitoring of the Real Property and to assist with providing site tours to potential bidders;
  - d. addressed questions of various parties who had paid deposits towards the purchase of a condominium suite at the Project (“**Unit Purchasers**”);
  - e. reviewed certain condominium unit sale agreements provided by Olowolafe, and the MT Deposit Report to understand what deposits were received from Unit Purchasers with regard to the Pre-Construction Sales;
  - f. implemented the Sale Process (as outlined below);
  - g. conducted an examination under oath of Olowolafe;
  - h. engaged Robin’s Appleby as its legal counsel and Rose, Parisko, Rakowsky, Melvin LLP (“**Rose Parisko**”) as its independent counsel for the limited purpose of obtaining a security opinion with respect to the security held by Centurion; and
  - i. prepared this Second Report.

## SALE PROCESS

### Review and Summary of the Sale Process

14. Capitalized terms not otherwise defined in this section are as identified in the Sale Process (as appended to this Second Report).
15. Pursuant to the Receivership and Sale Process Order, the Receiver implemented the Sales Process as approved by the Court to invite offers to purchase the Assets. As of the date of this Second Report, the Receiver has:

- a. in conjunction with BDO's corporate finance practice, compiled a list of prospective purchasers that would have an interest in acquiring the Assets. The Receiver contacted 354 prospective purchasers via phone calls, emails and from responding to inquiries originating from a listing on the Multiple Listing Services ("**MLS**");
- b. prepared and distributed an initial offering summary (the "**Teaser Letter**") to each of the prospective purchasers (with the exception of parties that were called and noted that they would not be interested in pursuing the opportunity). The Teaser Letter was posted on the Receiver's case website;
- c. prepared a non-disclosure agreement ("**NDA**"), and distributed a copy of the NDA to each prospective purchaser that requested additional information regarding the Project;
- d. prepared an advertisement notifying the public of the Sale Process and arranged for its publication:
  - i. in the national edition of the Globe and Mail on February 12, 2021;
  - ii. in the Daily Commercial News by Construct Connect publication on every weekday between February 23, 2021 and April 7, 2021, for a total of 30 publications;
  - iii. in the Novae Res Urbis Greater Toronto and Hamilton Area publication on February 17 and 24, 2021; and
  - iv. on the MLS.
- e. in total, the Receiver received 63 executed NDAs from prospective purchasers who wished to participate in the Sale Process;
- f. determined that parties that submitted an executed NDA were each, in the Receiver's reasonable business judgment a "**Phase 1 Qualified Bidder**";
- g. prepared a confidential information memorandum (the "**CIM**");
- h. prepared the electronic data room (the "**Data Room**") and organized, compiled and reviewed the information to be included in the Data Room in order to facilitate the due diligence attributed to the Sale Process for Phase 1 Qualified Bidders. The Data Room contained, among other things: (i) the Teaser and CIM, (ii) the financial and construction information related to the Project, and (iii) the Template APA (as defined herein);



- i. coordinated and assisted Phase 1 Qualified Bidders with due diligence requests;
  - j. prepared and uploaded to the Data Room a template asset purchase agreement (the “**Template APA**”);
  - k. participated in meetings, calls and discussions with stakeholders and answered inquired from Phase 1 Qualified Bidders with respect to the Sale Process and Assets;
  - l. review and assessed Non-Binding APAs submitted pursuant to the Sale Process;
  - m. determined which Phase 1 Qualified Bidders, in the Receiver’s reasonable business judgement, met the criteria set out in the Sale Process to be deemed a “**Phase 2 Qualified Bidder**”; and
  - n. assisted Phase 2 Qualified Bidders in completing other due diligence with a view of submitting a Binding APA on or before April 16, 2021, the Binding APA Deadline.
16. The Receiver is of the view that the above Sale Process was conducted in a commercially reasonable manner and the Assets were widely exposed to the market.

#### **Non-Binding APAs Receiver**

17. The Receiver received seven (7) Non-Binding APAs (collectively, the “**Offers**”) prior to the Binding APA Deadline.
18. The Receiver reviewed and considered the Offers to determine whether the Non-Binding APAs could be considered Qualified APAs and whether a Phase 1 Qualified Bidder could be advanced to a Phase 2 Qualified Bidder. A summary of the Non-Binding APAs are included in **Confidential Appendix ‘1’**.
19. Based on the Receiver’s reasonable business judgement, the Receiver determined that four (4) Non-Binding APAs qualified as Qualified APAs. Accordingly, the Receiver notified those Phase 1 Qualified Bidders whose Offers were determined to be Qualified APAs, and these bidders were advanced as Phase 2 Qualified Bidders and entered into Phase 2 of the Sale Process.

#### **Binding APAs Received**

20. On or prior to the Binding APA Deadline, the Receiver was in receipt of two (2) Binding APAs (the “**Binding Offers**”). One of the Binding Offers was submitted by 12931109 Canada Inc. (“**129**”), which had not previously submitted a non-binding APA. 129 is an investor group where one of the investors is Olowolafe.

21. 129's offer appeared to be the superior offer when considering purchase price and other factors discussed below, however, the Receiver required clarification with respect to the proposed financing contained in the offer. Accordingly, the Receiver entered into discussions with 129 to obtain further details of 129's planned financing. The Receiver discussed the results of the Sale Process with the main stakeholder, Centurion. Centurion advised that it would not support the acceptance by the Receiver of either of the Binding Offers as submitted as the purchase prices being offered would result in Centurion suffering a significant shortfall on its loan.
22. The Receiver entered into further negotiation with 129 that ultimately resulted in a revised APA with an increased Purchase Price (the "**Revised 129 Offer**").
23. The Receiver has prepared a summary of the Binding Offers, a copy of which is accompanied with the filing of this Second Report as **Confidential Appendix '1'**.
24. Pursuant to the Sale Process, the Receiver evaluated the Binding Offers, including the Revised 129 Offer based on several factors including, without limitation:
  - a. items such as the purchase price and the net value provided by such bid;
  - b. conditions associated with such bid (if any);
  - c. the proposed transaction documents;
  - d. other factors affecting the speed and certainty of closing the transaction;
  - e. the value of the transaction;
  - f. the assets included or excluded from the bid; and
  - g. the likelihood and timing of consummating such transaction.
25. The Receiver recommends accepting the 12931109 APA as the Successful APA pursuant to the Sale Process, subject to this Court's approval. A copy of the redacted 12931109 APA, redacting the purchase price and the amount of the deposit, is attached hereto as **Appendix 'D'**. A copy of the unredacted 12931109 APA accompanies the filing of this Second Report as **Confidential Appendix '2'**.
26. Centurion supports the Receiver's recommendation to the Court to accept the 12931109 APA.
27. On April 29, 2021, the Receiver notified the other Phase 2 Qualified Bidder that submitted a Binding Offer that its Binding Offer had been rejected.

28. Pursuant to the Sale Process, the deposits received from unsuccessful bidders were returned.

### **Proposed Transaction**

29. Set out below is a summary of the principal terms and conditions of the 12931109 APA. Capitalized terms not otherwise defined in this section are as defined in the 12931109 APA.

### Purchased Assets

30. The Purchaser will acquire, on an “as is, where is” basis, the Purchased Assets as set out in section 2.01 of the 12931109 APA, which includes the following:

- a. the Lands;
- b. all structures, erections, improvements, appurtenances and fixtures situate on or forming part of the Lands;
- c. subject to sections 2.09 and 2.09(3) of the 12931109 APA, the Assigned Contracts;
- d. all Intellectual Property owned by 102 Corp that was used in connection with the Purchased Assets;
- e. all pre-paid expenses and deposits relating to the Purchases Assets (other than deposits paid to suppliers or customers of 102 Corp) including all pre-paid taxes, local improvement rates and charges, water rates and other operation costs, all pre-paid purchases of gas, oil and hydro, and all pre-paid lease payments;
- f. the Project Records; and
- g. the Books and Records

### Excluded Assets

31. Pursuant to the 12931109 APA, the Purchaser will have no rights with respect to the right title and interest of 102 Corp in and to the following assets:

- a. the cash and cash equivalents, short-term investments, bank account balances, bank deposits, including any deposits posted in respect of letters of credit, and petty cash of 102 Corp;
- b. all rights of 102 Corp to tax refunds, credits, rebates or similar benefits related to the Purchased Assets;

- c. the Excluded Contracts;
- d. shares and other interests or capital of 102 Corp;
- e. the tax records and insurance policies of 102 Corp;
- f. any Claim of 102 Corp to reimbursement under any insurance policy applicable to 102 Corp;
- g. Tarion bond no. 181020038 and master excess condominium deposit insurance policy no. 182310060, as amended by endorsement from time to time;
- h. Books and Records not pertaining primarily to the Purchased Assets;
- i. all funds or deposits held by suppliers, customer or any other person in trust for or on behalf of 102 Corp;
- j. any deposits held in trust by MT and paid by the purchasers of the condominium units in respect of the condominium project on the Lands; and
- k. any other assets listed in Exhibit F to the 12931109 APA.

#### Consideration

32. Consideration in respect of the Purchase Price consists of the following:
- a. cash in consideration of the Purchased Assets, less any shortfall to be incurred by Centurion in respect of its loan to 102 Corp. which is to be satisfied by a Charge/Mortgage in favour of Centurion (the "**Centurion Mortgage**") on the terms and conditions as set out in Exhibit H to the 12931109 APA and as otherwise agreed to by Centurion;
  - b. plus or minus customary adjustments on account of the sale of the Lands including real property taxes; and
  - c. the assumption by the Purchaser of the Assumed Liabilities.

#### Assumed Liabilities

33. At the time of Closing, the Purchaser will assume and thereafter fulfil, perform and discharge when due the following liabilities of 102 Corp outstanding as at the Closing Date, which include the following:

- a. all Liabilities arising from or in connection with the Assigned Contracts, including any Cure Costs;
- b. all Liabilities arising from or in connection with any tax, levy, penalty, interest or costs for which the Purchaser is responsible pursuant to Sections 2.06 and 2.07 and any Permitted Encumbrances; and
- c. all Liabilities relating to or arising from the Purchased Assets under Environmental Laws.

#### Purchaser's Conditions

34. The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the Approval and Vesting Order being granted by the Court and such order not being stayed, varied in any material respect, set aside or appealed (or any such appeal being dismissed with no further appeal therefrom).
35. Additionally, the 12931109 APA is conditional upon the Receiver disclaiming the Pre-Construction Sale Agreements entered into by 102 Corp with the Unit Purchasers with regard to the Pre-Construction Sales.

#### Closing

36. Pursuant to the 12931109 APA, subject to the waiver or satisfaction of the above condition, the Closing of the Transaction will occur forty-five (45) days following the issuance of the Approval and Vesting Order or such other date as may be agreed among the parties.

#### **DISCLAIMER OF INDIVIDUAL PURCHASER AGREEMENTS**

37. Prior to the commencement of the receivership proceedings, 102 Corp had entered into the Pre-Construction Sale Agreements with the Unit Purchasers in respect of the Pre-Construction Sales. The Unit Purchasers have paid deposits to 102 Corp, in accordance with the Pre-Construction Sale Agreements, and deposit funds were deposited into a trust account with MT.
38. MT has advised the Receiver that as of the date of the Receiver's appointment, a balance of \$95,000 remained in its trust account, representing deposits paid by six (6) Unit Purchasers with respect to eleven (11) individual condominium units. Interest has not been accruing on these amounts. A copy of the redacted summary of the MT Deposit Report, removing personal information of the Unit Purchasers, is attached hereto as **Appendix 'E'**.
39. The funds held by MT are held pursuant to a Deposit Trust Agreement. A copy of the Deposit Trust Agreement is attached hereto as **Appendix 'F'**.

40. As the Pre-Construction Sale Agreements will not be assigned or assumed as part of the Transaction pursuant to the 12931109 APA, there is no possibility that they will be completed by 102 Corp, the Receiver or the Purchaser. As such, it is appropriate at this time to disclaim the contracts so that the deposits may be returned by MT and the surety bond may be released.
41. The Receiver's counsel has reviewed the form of Pre-Construction Sale Agreements. The Unit Purchasers agreed that their agreement would be subordinated and postposed to any mortgages arranged by 102 Corp. Further, the Pre-Construction Sale Agreements stipulate that the Unit Purchaser would not acquire an interest in the Property until such time as subdivision control provisions of the *Planning Act* are compiled by 102 Corp. on or before closing. To date, the Project has not progressed to a point where the condominium was registered by 102 Corp. and accordingly the Unit Purchasers do not have an interest in the Property. In the circumstances, the Receiver believes that it is appropriate at this time to disclaim the Pre-Construction Sale Agreements to permit the return of the deposits to the Unit Purchasers.
42. In this regard, the Receiver, through its counsel, has worked with counsel to Tarion Warranty Corporation and Westmount Guarantee Services Inc. on behalf of Aviva Insurance Company of Canada (the "**Surety**") to prepare a deposit refund protocol. The deposit refund protocol will see deposits paid by the Unit Purchasers returned to them upon the satisfaction of the conditions set out in the protocol. A copy of the deposit refund protocol is attached as **Appendix 'G'**.
43. The Receiver is seeking the Court's approval to disclaim the Pre-Construction Sale Agreements with the Unit Purchasers and is seeking approval of the deposit refund protocol to deal with the return of the deposits held by MT to the respective Unit Purchasers.

#### **DISTRIBUTION OF NET SALE PROCEEDS**

44. As set out in the Application Record in support of the Receivership Order, on or about October 15, 2018, pursuant to a Commitment Letter, Centurion made a secured loan available to 102 Corp in the principal amount of \$15,948,280. By amendment to the Commitment Letter, dated December 17, 2018, the terms of the loan were increased to \$16,629,592 (the "**Centurion Loan**").
45. In support of the Centurion Loan, Centurion obtained, among other things, the following security:
- a. A Charge/Mortgage in the original amount of \$17,500,000 registered on December 18, 2018 as Instrument No. DR1762699 against the Property in favour of Centurion (the "**Centurion Mortgage**"); and

- b. A General Security Agreement between Centurion, as lender, and 102 Corp, as borrower, dated November 19, 2018 (the “**Centurion GSA**” and together with the Centurion Mortgage, the “**Centurion Charge**”).
46. The obligations of the Debtors to Centurion, including costs and interest charges to June 8, 2021, total \$9,036,712, and are reflected in a statement provided by Centurion to the Receiver attached as **Appendix 'H'**.
47. The net proceeds of the sale of the Real Property will not be sufficient to fully repay the indebtedness of 102 Corp to Centurion. Pursuant to 12931109 APA Centurion will be registering a mortgage against the Real Property for the shortfall it suffers on its loan to 102 Corp.
48. The Receiver obtained a security opinion from Rose, Persiko, Rawkowsky, Melvin LLP (the “**Security Opinion**”) and, subject to the customary qualifications and assumptions contained therein, the Security Opinion opines that: (i) the security held by Centurion is valid and legally enforceable against 102 Corp, and (ii) Centurion has a first priority security interest in the assets sold pursuant to the 12931109 APA (the “**Assets**”).
49. Subject to the customary assumptions and qualifications contained in the Security Opinion, Rose Persiko has opined that the subject Centurion security documents:
  - a. constitute legal, valid and binding security interests in favour of Centurion in the Assets;
  - b. is sufficient to secure the payment and performance of the obligations secured thereby;  
and
  - c. is properly registered and in first position over all other secured creditors.
50. At the date of receivership 102 Corp had no employees, no outstanding wages, vacation pay or source deductions. In addition, 102 Corp had no outstanding HST obligations.
51. The Receiver is advised by its counsel that there are no liens registered against title to the Property and any registrations on the Property would rank in subordinate positions to the Centurion Charge. Accordingly, the Receiver is unaware of any claims which would rank in priority to the secured claims of Centurion, other than charges provided by the Receivership Order.
52. Based on the payout statements received from Centurion, and subject to retaining an amount by way of a holdback to address any outstanding issues that may arise and to obtain a discharge of the Receiver, the Receiver proposes to distribute the net proceeds of the Transaction to Centurion up to a maximum amount of the debt owing to Centurion (the “**Proposed Distribution**”).

53. The Receiver is seeking approval of the Proposed Distribution from the Court so that it can make an interim distribution to Centurion, following the receipt of the Transaction sale proceeds and net of a holdback (the “**Holdback**”), as described below. The Receiver considers it prudent to repay the borrowings to Centurion in order to eliminate the ongoing interest and other costs being incurred.
54. The Receiver is presently aware of the following potential costs for which it seeks to retain the Holdback:
- a. Closing costs - while these amounts are notionally included in the Holdback to calculate the Proposed Distribution, they will be paid by the Receiver on closing of the Transaction; and
  - b. Receivership costs - including professional fees and post-filing amounts payable by the Receiver and all amounts owing pursuant to the Court-ordered charges as reflected in the Receivership Order including:
    - i. the Receiver’s Charge, which secures payment of the fees and disbursements of the Receiver and its legal counsel. These disbursements have been paid in the normal course throughout the Receivership Proceedings, and a reserve is held for amounts that are currently owing or forecast to be incurred; and
    - ii. the Receiver’s Borrowing Charge, which secures payment of the Receiver’s borrowings from Centurion during the Receivership Proceedings. The Receiver will repay these borrowings with the proceeds of the Transaction.

## RECEIPTS AND DISBURSEMENTS

55. The R&D Statement, appended hereto as **Appendix 'I'**, reports net receipts over disbursements from the date of the Receiver’s appointment to May 28, 2021, amount to \$65,513.15.

## SEALING ORDER

56. In the event that the Court does not grant the Approval and Vesting Order or the Transaction does not close, the Receiver is of the view that efforts to re-market the Assets would be impaired if the Bid Summary or the commercially sensitive terms of the 12931109 APA were to be made public at this time. Accordingly, the Receiver believes that it is appropriate for the Bid Summary and the unredacted 12931109 APA to remain confidential until such time as the Transaction closes. Accordingly, the Receiver requests and order sealing the unredacted 12931109 APA and the Bid Summary as attached as Confidential Appendices 1 and 2.



## FEES AND DISBURSEMENTS

57. Pursuant to the Receivership Order, any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees and disbursements of the Receiver and the fees and disbursements of the Receiver's legal counsel, constitute part of the "**Receiver's Charge**".
58. The Receiver's fees and disbursements for the period of December 2, 2020 to May 20, 2021 were \$129,774.54 and HST of \$16,870.69, for a total of \$146,645.23, which are described in the Affidavit of Josie Parisi sworn May 31, 2021, a copy of which is attached hereto as **Appendix 'J'**.
59. Robins Appleby's fees and disbursements for the period of January 21, 2021 to May 27, 2021 were \$63,127.00 plus disbursement of \$1,707.34 and applicable taxes of \$8,381.81 for an aggregate amount of \$73,216.15., as set out in the affidavit of Irving Marks sworn May 28, 2021, a copy of which is attached hereto as **Appendix 'K'**.
60. The Receiver respectfully submits that the Receiver's fees and disbursements and Robins Appleby's fees and disbursements are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Receivership Order.

## SUMMARY AND RECOMMENDATIONS

61. Based on the foregoing, the Receiver respectfully requests that this Court grant Order(s):
- a. approving and authorizing the 12931109 APA and approving the Transaction;
  - b. vesting 102's right, title and interest, if any, in and to the Purchased Assets free and clear of all encumbrances, subject to the terms of the 12931109 APA;
  - c. sealing the Confidential Appendices;
  - d. approving a distribution of the net sale proceeds from the sale of the Assets to Centurion as set out herein, subject to the Holdback as the Receiver may require to complete its mandate and obtain its discharge pursuant to the Receivership Order;
  - e. authorizing the Receiver to disclaim the Pre-Construction Sale Agreements with the Unit Purchasers;
  - f. approving the Deposit Refund Protocol to deal with the return of the deposits to the Unit Purchasers resulting from the disclaimed Pre-Construction Sale Agreements;
  - g. approving the activities of the Receiver, as described in this Second Report; and

- h. approving the fees and disbursements of the Receiver and its legal counsel, Robins Appleby as set out in this Second Report, and to authorize the Receiver to pay all approved and unpaid fees and disbursements.

All of which is respectfully submitted this 31st day of May 2021.

**BDO CANADA LIMITED,  
in its capacity as the Court-appointed Receiver of  
10268054 Canada Corp, and not in its personal or corporate  
capacity**

Per:



---

Name: Josie Parisi, CA, CPA, CBV, CIRP, LIT  
Title: Senior Vice-President

# TAB A

Court File No. CV-20-00652174-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Plaintiff

- and -

10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND

TEMITOPE OLOWOLAFRE a.k.a. ISACC OLOWOLAFE

Defendants

REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY

AS PROPOSED RECEIVER

December 16, 2020

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## INTRODUCTION AND PURPOSE OF THIS REPORT

### Introduction

1. BDO Canada Limited ("BDO") understands that Centurion Mortgage Capital Corporation ("Centurion" or the "Plaintiff") intends to bring an application before this Honourable Court seeking relief under section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, as amended ("BIA") and section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended ("CJA"), appointing BDO as receiver and manager (in such capacity, the "Receiver") over all of the assets, undertakings and properties (collectively, the "Assets") of 10268054 Canada Corp. (the "Company" or "102 Corp.") in such proceeding.
2. BDO has provided its consent to act as Receiver (the "Consent") should this Honourable Court grant the Plaintiff's request to appoint a Receiver over the Company's Assets. A copy of the Consent is included as Tab 2, Appendix "S" to the Plaintiff's motion record.
3. The proceeding to be commenced by the Plaintiff pursuant to the BIA and CJA are referred to herein as the "Receivership Proceeding".

### Background

4. The Company's principal asset is a partially completed 2 and 3 storey, 42 unit stacked condominium townhouse complex development known as 135 Mandrake Street (the "Project"). The Project consists of approximately 39,084 square feet of net saleable area plus 49 above grade parking spaces on a 1.05 acre lot. A legal description of the Project lands, municipally known as 184-188 Salem Road (formerly 135 Mandrake Street), Ajax, Ontario (the "Real Property") is included hereto as Appendix "A".

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5. The proposed Receiver understands that 102 Corp. is a single purpose entity incorporated in Canada by Dream Maker Developments Inc. for the sole purpose of developing the Project. The Project is listed as "Project #5" on the Dream Maker Developments Inc. website with the following Uniform Resource Locator "URL": <https://www.dreammakerrealty.ca/pages/4722/Dream-Maker-Developments-Inc>.
6. The Project is currently under construction and it appears from recent photographs taken by the proposed Receiver on December 2, 2020, that certain site servicing work appears completed and a concrete foundation has been poured. Photographs taken by the proposed Receiver are included hereto as Appendix "B".
7. The proposed Receiver understands that approximately 11 condominium units have been pre-sold (the "Pre-Construction Sales") and agreement of purchase and sale have been executed between 102 Corp. and the condominium unit purchasers. The Company's solicitor, Miller Thomson LLP, currently holds \$95,000, in trust in respect of the deposits received from the Pre-Construction Sales.
8. Pursuant to Paragraph 3(k) of the Commercial List Model Receivership Order, a receiver is authorized to sell, convey, transfer, lease or assign 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.

#### Purpose

9. The purpose of the this pre-filing report of the proposed Receiver dated December 16, 2020 (the "Pre-filing Report") is to provide this Honourable Court with further background information related to additional relief sought by the Plaintiff should this Honourable Court approve the appointment of a Receiver over the Company's Assets including:

- (a) that the Court contemporaneously approve the proposed Receiver's intended marketing and sale process for the Project (the "Sale Process"), as set out in this Pre-filing Report to reduce the number of court appearances in the Receivership Proceeding to reduce receivership costs while also limiting the carrying costs associated with the Real Property.

#### Disclaimer

10. BDO has reviewed the sworn affidavit of Ryan Buzzell dated December 3, 2020 (the "Buzzell Affidavit").
11. BDO has relied upon the financial records and financial statements of 102 Corp., as well as other information supplied by management, accountants, auditors and financial advisors to 102 Corp. Our procedures and enquiries did not constitute an audit or review engagement. BDO assumes no responsibility or liability for loss or damage occasioned by any party as a result of the circulation, publication, re-production or use of the Pre-filing Report (defined below). Any use which any party, other than the Court, makes of this Pre-filing Report or any reliance on or a decision made based upon it is the responsibility of such party.
12. Capitalized terms not defined in this report are as defined in the Buzzell Affidavit filed in support of the Plaintiff's motion to appoint a receiver over the the Company's Assets. This report should be read in conjunction with the Buzzell Affidavit as certain information contained in the Buzzell Affidavit has not been included herein in order to avoid unnecessary duplication.
13. Unless otherwise stated, all monetary amounts contained in Pre-Filing Report are expressed in Canadian dollars.

#### PROPOSED MARKETING AND SALE PROCESS

14. In addition to seeking the appointment of a Receiver over the Company's Assets, the Plaintiff is seeking this Court's approval of the proposed Sale Process, the details of which are set out in detail below.



15. The proposed Receiver has developed the Sale Process to solicit bids by a set bid deadline. The proposed Receiver is of the view that the proposed Sale Process balances the need to have a sale accomplished in a reasonable time frame to limit the carrying costs of the Real Property with the desire to properly expose the Project to the marketplace to maximize recovery for the creditors.

#### Overview

16. The proposed Sale Process, including the proposed timelines, is annexed hereto as Appendix "C", and will consist of the following steps:
  - (a) preparing a list of developers and other identified potential strategic buyers, who will be contacted by telephone or email with a "teaser letter" describing the development/investment opportunity;
  - (b) creating a website promoting the Sale Process, which will be accessed through the website that the proposed Receiver creates to provide access to all public Court documents in the Receivership Proceeding, namely, URL: [https://www.extranets.bdo.ca/10268054 Canada Corp](https://www.extranets.bdo.ca/10268054 Canada Corp;);
  - (c) advertising the development/investment opportunity in the national edition of the Globe & Mail on two separate occasions;
  - (d) advertising the development/investment opportunity in the "Daily Commercial News" construction gazette;
  - (e) advertising the development/investment opportunity in the NRU GTA Weekly Newsletter;
  - (f) advertising the development/investment opportunity on the MLS and/or ICX website through a third party provider;

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- (g) preparing a form of confidentiality agreement and a confidential information memorandum (the "CIM") to invite offers to purchase the Project, which will include a summary of the opportunity and the terms and conditions of sale (the "Terms and Conditions");
- (h) the Terms and Conditions included in the CIM will request that non-binding bids be submitted no later than 5:00 pm (Toronto time) on Friday, March 12, 2021 (the "Non-Binding APA Deadline") in accordance with the proposed Sale Process, which will require the following:
- the identity of the purchaser;
  - the total dollar value of the bid submitted;
  - a deposit equal to 5% of the offer price; and
  - evidence of financial wherewithal to complete the transaction.
- (i) pre-qualifying bidders and ensuring they execute the confidentiality agreement prior to being granted access to the Receiver's encrypted virtual electronic data room (the "Data Room"), which will contain, among other things: (i) the CIM and financial information relevant to the Project; (ii) other pertinent site and development information relevant to the Project, and (iii) a template asset purchase agreement;
- (j) coordinating site visits to the Real Property;
- (k) responding to additional information requests and questions regarding the Project;
- (l) receiving and refining bids and selecting a winning bidder;

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(m) allowing qualified bidders a limited due diligence period; and

(n) finalizing an agreement of purchase and sale and preparing to seek Court approval of the selected bid.

#### Proposed Sale Process Timeline

17. Set out below is the proposed Sale Process timeline (capitalized terms are as defined in the Sale Process):

Date(s)	Summary of Sale Process Step(s)
Friday, January 15, 2021 to Friday, January 29, 2021 (2 weeks)	Set up encrypted virtual data room and website Complete CIM Prepare marketing materials and teaser letter Assemble target lists
Monday, February 1, 2021 to Friday, March 12, 2021 (6 weeks)	Contact interested parties and distribute teaser letter Delivery of executed confidentiality agreements and grant access to encrypted data room Marketing efforts as set out in paragraph 16 (b) to (g) above Potential Bidder meetings Co-ordinate site visits
Friday, March 12, 2021	Non-Binding APA Deadline - 5:00 pm (Eastern Standard Time)
Monday, March 15, 2021 to Friday, March 19, 2021 (1 week)	Review and evaluate Non-Binding APAs Negotiate Non-binding APAs Qualify Phase II Qualified Bidders
Monday, March 22, 2021 to Friday, April 2, 2021 (2 weeks)	Phase II Qualified Bidder due diligence period Co-ordinate any legal and tax issues Assist in any reasonable diligence requests
Friday, April 2, 2021	Binding APA Deadline - 5:00 pm (Eastern Standard Time)
Monday, April 5, 2021 to Friday, April 9, 2021 (1 week)	Selection of Successful APA, and finalization and execution of Successful APA

Date(s)	Summary of Sale Process Step(s)
Friday April 23, 2021 (2 weeks)	Court approval of Successful APA and transaction
Tuesday, May 4, 2021 (11 days)	Closing

18. The proposed Sale Process is expected to take 15 weeks or just under 4 months to complete should the Court approve the Sale Process.
19. Although the proposed Receiver's intended course of action is to run its Sale Process with a bid deadline, the proposed Receiver also seeks the flexibility to be able to accept any bid received at any time, terminate the Sale Process at any time and immediately enter into discussions with a bidder with a view to finalizing the transaction contemplated by such bid.
20. The market of likely buyers for the Project may be relatively limited to residential property developers in this instance and can be readily identified by the proposed Receiver. The Project's attributes do not appear to lend themselves to being simply listed on MLS alone as would be the case if selling the Real Property through a real estate broker. The Receiver's proposed Sale Process provides for the comparison of multiple offers inherently maximizing asset value. The proposed Receiver's Sale Process will also set to limit the due diligence period required by prospective purchasers during which time the property would essentially be "off the market" if being sold by a real estate broker.
21. The proposed Receiver is of the view that the proposed Sale Process represents a reasonable and commercially efficient process which allows a sufficient opportunity to optimize the chances of securing the best possible price for the Project for the benefit of the Company's creditors as a whole.

#### PROPOSED RECEIVER'S RECOMMENDATIONS

22. Should this Honourable Court appoint a Receiver over the Company's Assets, the proposed Receiver recommends:

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(a) that the Court also contemporaneously approve the proposed Sale Process as set out in this Pre-Filing Report; and

(b) that the Court grant such further and other relief as it may deem just.

All of which is respectfully submitted this 16<sup>th</sup> day of December, 2020.

BDO CANADA LIMITED,

Per:



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Name: Gary Cerrato, CIRP, LIT  
Title: Vice President

Court File No: CV-20-006521714-00CL

CENTURION MORTGAGE CAPITAL CORPORATION

- and -

10268054 CANADA CORP. ET AL

Plaintiff

Defendants

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

PROCEEDING COMMENCED AT TORONTO

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**FIRST REPORT OF BDO CANADA LIMITED, IN ITS  
CAPACITY AS PROPOSED COURT APPOINTED RECEIVER**

---

**ROBINS APPLEBY LLP**

Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, Ontario M5H 1T1

**DOMINIQUE MICHAUD LSO No.: 56871V**

Tel: (416) 360-3795

Fax: (416) 868-0306

[dmichaud@robapp.com](mailto:dmichaud@robapp.com)

**SAMUEL MOSONYI LSO No.:78085A**

Tel: (416) 360-3356

[smosonyi@robapp.com](mailto:smosonyi@robapp.com)

*Lawyers for the Receiver*

## Sale Process

Set forth below is the sale process (the “**Sale Process**”) to be employed with respect to the proposed sale of all or substantially all of the business and assets (the “**Assets**”) of 10268054 Canada Corp. (the “**Company**” or “**102 Corp.**”).

On January 14, 2021, Centurion Mortgage Capital Corporation is bringing a motion before the Ontario Superior Court of Justice (the “**Court**”) to have an Order issued (the “**Receivership Order**”), appointing BDO Canada Limited as the receiver and manager (in such capacity, the “**Receiver**”) of all of the assets, undertakings and properties of the Company.

Pursuant to the Receivership Order, the Receiver is authorized to market, advertise and solicit offers in respect of the sale, in whole or in part, of the Assets.

The Sale Process is intended to solicit interest in an acquisition of the Assets, under a fair and competitive sale process pursuant to which all qualified interested parties will be provided with a fair and equal opportunity to participate in the Sale Process.

Notwithstanding anything contained herein, the Receiver shall have the right to enter into an exclusive transaction for the sale of the Assets, or any portion thereof, outside of the Sale Process prior to the selection of a Successful Bidder (as defined herein).

## **Timeline**

The following table sets out the key milestones under the Sale Process:

<b>Milestone</b>	<b>Deadline</b>
Non-Binding APA Deadline	March 12, 2021
Binding APA Deadline	April 2, 2021
Sale Approval Motion	April 23, 2021
Closing Date	May 4, 2021

Subject to the terms contained herein and any order of the Court, the dates set out in the Sale Process may be extended by the Receiver, in its sole discretion acting reasonably, all with a view of maximizing the value of the Assets.

## **Sale Process**

The Sale Process set forth herein describes, among other things: (i) the Assets available for sale, (ii) the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Assets, (iii) the manner in which bidders can be determined to be a Phase 1 Qualified Bidder (as defined herein), (iv) the timing of delivering a Non-Binding APA (as defined herein), (v) the manner in which bids are to be received and negotiated, (vi) the ultimate selection of any Successful Bidder (as defined herein) and the process leading up to that selection, and (vii) the approval thereof by the Court.

### **Assets To Be Sold**

The Receiver, in accordance with this Sale Process, is offering for sale, in one or more transactions, the Assets. The Receiver reserves the right to eliminate certain assets available for sale pursuant to the Sale Process prior to the Non-Binding APA Deadline (as defined below).

### **“As Is, Where Is”**

The sale of the Assets will be on an “as is, where is” basis without representations or warranties of any kind, nature or description by the Receiver, or any of their respective directors, officers, partners, employees, agents, advisors or estates, except to the extent as may be set forth in a Binding APA (as defined herein), and approved by the Court. By submitting a bid, each Potential Bidder (as defined herein) shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Process or as set forth in a Binding APA and approved by the Court.

### **Free Of Any And All Claims And Interests**

Except as may otherwise be provided in the Successful Bidder's Binding APA, all of the rights, title and interests of 102 Corp. in and to the Assets, or any portion thereof, will be sold free and clear of all liens and claims (which may be defined in an Approval and Vesting Order (as defined herein)), subject to any permitted encumbrances (which may be defined in an Approval and Vesting Order), pursuant to an order by the Court approving the sale of the Assets, or a portion thereof, and vesting in the Successful Bidder all of 102 Corp.'s rights, title and interests in and to such Assets, or a portion thereof, by way of an approval and vesting order (the “**Approval and Vesting Order**”). For greater certainty, such liens and claims are to attach to the net proceeds of the sale of such Assets following the granting of the Approval and Vesting Order.

### **Publication Notice**

Within seven (7) business days of the granting of the Sale Process order by the Court (the “**Sale Process Order**”), or as soon as practicable thereafter the Receiver shall publish notice of this Sale Process: (i) in The Globe and Mail (National Edition), the Daily Commercial News, the NRU GTA Weekly Newsletter, the MLS and / or ICX (through a third party provider), and (ii) in any other relevant publication that may advertise and potentially solicit interest in the Assets.

### **Solicitation of Interest**

As soon as reasonably practicable after the granting of the Sale Process Order, the Receiver will prepare an initial offering summary (the “**Teaser Letter**”) notifying prospective purchasers of the existence of the Sale Process and inviting prospective purchasers to express their interest in making an offer for the Assets pursuant to the terms of the Sale Process.

### **Participation Requirements**

Unless otherwise ordered by the Court or as otherwise determined by the Receiver, each person who wishes to participate in the Sale Process, (a “**Potential Bidder**”) must deliver to the Receiver, an executed non-disclosure agreement (“**NDA**”), in the form attached herein as **Schedule “A”**, prior to the distribution of any confidential information by the Receiver.



If it is determined by the Receiver, in its reasonable business judgment, that a Potential Bidder: (i) has a *bona fide* interest in an acquisition of the Assets; and (ii) has delivered the NDA, then such Potential Bidder will be deemed by the Receiver to be a **"Phase 1 Qualified Bidder"**.

The Receiver will prepare and send to each Phase 1 Qualified Bidder, as soon as reasonably practicable, a confidential information memorandum which will provide, among other things, information considered relevant to the Sale Process.

### **Due Diligence**

The Receiver, in its reasonable business judgment, and subject to competitive and other business considerations, may give each Phase 1 Qualified Bidder, such access to due diligence materials and information relating to the Assets as the Receiver deems appropriate. Due diligence access may include access to an electronic data room (a **"Data Room"**), on-site inspections, and other matters which a Phase 1 Qualified Bidder may reasonably request and as to which the Receiver, in its reasonable business judgment, may agree. The Receiver may designate a representative to coordinate all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated. Neither the Receiver nor any of its affiliates (or any of its respective representatives) will be obligated to furnish any information relating to the Assets to any person, in its discretion. The Receiver makes no representation or warranty as to the information to be provided through this due diligence process or otherwise, except as may be set forth in a Binding APA with the Successful Bidder.

### **Non-Binding APA Deadline**

A Phase 1 Qualified Bidder that desires to make a bid shall deliver written copies of its bid, in the form of the template asset purchase agreement located in the Data Room (the **"APA"**), together with a blackline outlining all changes made to the APA (a **"Non-Binding APA"**), to the Receiver as follows: **[TBD]** so as to be received by the Receiver no later than March 12, 2021 at 5:00 p.m. (ET) (as may be extended as set out below, the **"Non-Binding APA Deadline"**). The Receiver, may extend the Non-Binding APA Deadline, once or successively, but is not obligated to do so. If the Non-Binding APA Deadline is extended, the Receiver will promptly notify all Phase 1 Qualified Bidders.

### **Qualified APA**

A Non-Binding APA will be considered a qualified APA only if the Non-Binding APA is submitted by a Phase 1 Qualified Bidder and complies with all of the following (a **"Qualified APA"**):

- (a) the bid (either individually or in combination with other bids that make up one Qualified APA) is an offer to purchase some or all of the Assets on terms and conditions reasonably acceptable to the Receiver;
- (b) it is duly authorized and executed, and includes a purchase price for the Assets expressed in Canadian dollars (the **"Purchase Price"**), together with all exhibits, schedules and all applicable ancillary agreements thereto;
- (c) it includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Receiver to make a reasonable determination as to the Phase 1 Qualified Bidder's financial and other capabilities to consummate the proposed sale and pay the Purchase Price;
- (d) it provides all of the conditions associated with unperformed due diligence that is required to be conducted in order to proceed with a Binding APA. For greater certainty, such conditions cannot relate to any financing condition;

- (e) it fully discloses the identity of each entity that will be bidding for the Assets or otherwise sponsoring, financing, participating or benefiting from such bid;
- (f) it includes an acknowledgement and representation of the Phase 1 Qualified Bidder that:
  - (i) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and (ii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith;
- (g) it includes evidence, in form and substance reasonably satisfactory to the Receiver, of authorization and approval from the Phase 1 Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of the Qualified APA submitted by the Phase 1 Qualified Bidder;
- (h) provides a deposit in the amount of not less than 5% of the Purchase Price offered by the Phase 1 Qualified Bidder (the "**Deposit**"); and
- (i) it is received by the Receiver by the Non-Binding APA Deadline.

The Receiver may determine whether to entertain bids for the Assets that do not conform to one or more of the requirements specified herein and deem such bids to be a Qualified APA.

The Receiver shall notify each Phase 1 Qualified Bidder in writing as to whether such Phase 1 Qualified Bidder's APA constituted a Qualified APA within five (5) business days following the expiration of the Non-Binding APA Deadline, or at such later time as the Receiver deems appropriate. If such notification is provided, then such Phase 1 Qualified Bidder will be deemed to be a "**Phase 2 Qualified Bidder**".

If the Receiver is not satisfied with the number or terms of bids submitted by the Non-Binding APA Deadline, the Receiver may extend the Non-Binding APA Deadline or cancel the Sale Process.

#### **Binding APA Deadline**

The Receiver will take all reasonable steps to negotiate and assist Phase 2 Qualified Bidder(s) in completing its unperformed due diligence, or any other bid matters including any discussions or negotiations required to be completed with any stakeholders in the receivership proceedings of 102 Corp., with a view of submitting: (i) a further binding APA (a "**Binding APA**") on or before April 2, 2021 (the "**Binding APA Deadline**"), and (ii) a blackline outlining all changes made to the APA, for consideration by the Receiver. For greater certainty, a Binding APA shall:

- (a) be delivered to the Receiver prior to the Binding APA Deadline;
- (b) replace and supersede the Non-Binding APA submitted by a Phase 2 Qualified Bidder;
- (c) comply with all of the requirements set forth in respect of a Qualified APA;
- (d) include a letter stating that the Phase 2 Qualified Bidder's offer is irrevocable and open for acceptance until the Successful APA (as defined herein) is selected by the Receiver;
- (e) include written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Receiver to make a determination as to the Phase 2 Qualified Bidder's financial and other capabilities to consummate the proposed transaction;

- (f) not to be conditioned on: (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, and/or (ii) obtaining financing;
- (g) fully disclose the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
- (h) provide the Deposit (as may be adjusted);
- (i) include acknowledgments and representations of the Phase 2 Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Assets and 102 Corp. prior to making its bid, (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith; and
- (j) the bid contemplates closing the transaction set out therein on or before May 4, 2021 (the "**Closing Date**").

The Receiver may determine whether to entertain bids for the Assets that do not conform to one or more of the requirements specified herein and deem such bids to be a Binding APA.

#### **Evaluation of Binding APA**

A Binding APA will be valued based upon several factors including, without limitation, items such as the Purchase Price and the net value provided by such bid, the claims likely to be created by such bid in relation to other bids, the counterparties to such transactions, the proposed transaction documents, other factors affecting the speed and certainty of the closing of the transaction, the value of the transaction, the assets included or excluded from the bid, the transition services required from the Receiver (if any), any related transaction costs, and the likelihood and timing of consummating such transactions, each as determined by the Receiver.

Each Phase 2 Qualified Bidder shall comply with all reasonable requests for additional information by the Receiver regarding the Phase 2 Qualified Bidder or the Binding APA. Failure of a Phase 2 Qualified Bidder to comply with requests for additional information will be a basis for the Receiver to reject a Binding APA.

#### **Selection of Successful APA**

The Receiver will review and evaluate each Binding APA. Each Binding APA may be negotiated by the Receiver and the applicable Phase 2 Qualified Bidder submitting the Binding APA (the "**Unconditional Bidder**"), and may be amended, modified or varied to improve such Binding APA and as a result of such negotiations, the Receiver may: (i) identify the highest or otherwise best offer for the Assets (the "**Successful APA**", and the Unconditional Bidder making such Successful APA, the "**Successful Bidder**"), or (ii) in the event no Successful Bidder is declared, reject each Binding APA and may ask any Unconditional Bidder to resubmit a revised Binding APA. The determination of a Successful APA by the Receiver, shall be subject to approval by the Court.

Notwithstanding the foregoing, a Binding APA may not be withdrawn, modified or amended without the written consent of the Receiver prior to the Successful APA being determined. Any such withdrawal, modification or amendment made without the written consent of the Receiver prior to the Successful APA being determined shall result in the forfeiture of such Unconditional Bidder's deposit as liquidated damages and not as a penalty.

In the event an Unconditional Bidder is not selected as a Successful Bidder, the Deposit shall be returned to the Unconditional Bidder as soon as reasonably practicable.

The Receiver shall have no obligation to select a Successful APA, and it reserves the right to reject any or all Binding APAs.

### **Sale Approval Motion Hearing**

The motion for an order of the Court approving any Successful APA (the "**Sale Approval Motion**") shall be sought and include, among other things, the approval from the Court to consummate the Successful APA. The Sale Approval Motion shall be heard on or before April 23, 2021.

All of the Binding APAs other than the Successful APA, if any, shall be deemed rejected by the Receiver on and as of the date of closing of the transaction contemplated by the Successful APA.

### **Reservation of Rights**

The Receiver may: (a) determine which Binding APA, if any, is the highest or otherwise best offer; (b) reject at any time before the issuance and entry of an order approving a Binding APA, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Sale Process or any order of the Court, or (iii) contrary to the best interests of the receivership estate, and (c) may modify the Sale Process or impose additional terms and conditions on the sale of the Assets.

### **Miscellaneous**

This Sale Process is solely for the benefit of the Receiver and nothing contained in the Sale Process Order or this Sale Process shall create any rights in any other person or bidder (including without limitation rights as third party beneficiaries or otherwise).

Except as provided in the Sale Process Order and Sale Process, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Sale Process Order and the Sale Process.

### **Limitation of Liability**

The Receiver shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, 102 Corp., or any creditor or other stakeholder, for any act or omission related to the Sale Process. By submitting a bid, each Potential Bidder shall be deemed to have agreed that it has no claim against the Receiver for any reason whatsoever.

**Schedule "A"**  
**Non-Disclosure Agreement**

**PRIVATE & CONFIDENTIAL**

► **[Potential Bidder Organization Name and Address]**

Dear Sirs:

**Re: Confidential Information with respect to 10268054 Canada Corp. (the "Debtor")**

In accordance with the terms of the Sale Process approved by the Ontario Superior Court of Justice (Commercial List) on \_\_\_\_\_ (the "**Sale Process**") you have requested access to due diligence and other materials relating to the business and assets (the "**Assets**") of the Debtor, such access to be coordinated by BDO Canada Limited, in its capacity as the Court-appointed Receiver in the receivership proceedings (the "**Receivership Proceedings**") of the Debtor (the "**Receiver**"). You will treat confidentially any information the Receiver or its representatives furnish to you in connection with the Assets (the "**Evaluation Material**"), provided, however, that the term "Evaluation Material" does not include information that: (a) was or becomes generally available to the public or to you on a non-confidential basis through no fault or breach of this agreement on your part or on the part of any of your directors, officers, employees or agents (including investment bankers, financing sources, accountants, and attorneys) (all such directors, officers, employees or agents referred to collectively as, "**Representatives**"); (b) was independently developed by you or your affiliates without reference to the Evaluation Material; or (c) was provided to you by a third party not known to you, after due inquiry, to be subject to confidentiality obligations.

You shall use the same degree of care as you use to protect your own confidential information of a similar nature, but not less than reasonable care, to prevent the unauthorized use, dissemination or publication of the Evaluation Material.

You agree that you will not use the Evaluation Material for any purpose other than evaluating your interest in purchasing some or all of the Assets; provided, however, that you may disclose any Evaluation Material to your Representatives who need to know such information for the purpose of evaluating the possible purchase of the Assets (it being understood that you shall inform such Representatives of the confidential nature of such information and that, by receiving such information, they agree to abide by the terms this Agreement), provided that you will be responsible for any breach of the provisions of this Agreement by any such Representatives.

Upon gaining access to the Evaluation Material, you will not contact any director, officer, employee or stakeholder of the Debtor or its affiliates with respect to the Evaluation Material or any other matter contemplated in this Agreement, without the express consent of the Receiver. In the event you are deemed a "Phase 2 Qualified Bidder" in accordance with the terms of the Sale Process, the Receiver may assist and coordinate meetings, discussions, and other communications between you and the aforementioned parties, all with a view of assisting you in submitting a "Binding APA" pursuant to the Sale Process.

In the event that you are required by applicable law or legal process or regulatory body or agency to disclose any part of the Evaluation Material, you will, to the extent permitted by law, give the Receiver prompt notice of such request so that the Receiver may seek an appropriate protective order. If in the absence of a protective order you are nonetheless compelled to disclose any part of the Evaluation Material, you may

disclose such information (but only to the extent necessary to comply with your legal obligations) without liability hereunder, provided, however, that you give the Receiver written notice of the information to be disclosed as far in advance of its disclosure as is practicable and legally permitted. Upon the Receiver's request, you will use your commercially reasonable efforts to obtain assurances that confidential treatment will be accorded to such information.

Upon the Receiver's written request, you shall return promptly to the Receiver or destroy all copies of the Evaluation Material and you shall provide promptly a written certificate to the Receiver confirming your compliance with this Agreement. Notwithstanding the foregoing, on written notice to the Receiver concurrently with the provision of the aforementioned written certificate, you may retain a copy of the Evaluation Material to the extent required in order to comply with regulatory and internal record retention requirements.

You agree that (a) the Receiver reserves the right, in its reasonable business judgment, and subject to competitive and other business considerations, to decline access to all or part of the Evaluation Material, and (b) the Receiver reserves the right to reject any and all offers for the Assets or to terminate discussions and negotiations with you at any time all in accordance with the terms of the Sale Process. The exercise by the Receiver of these rights shall not affect the enforceability of any provision of this Agreement.

You acknowledge and agree that neither the Debtor nor the Receiver nor their representatives have made or make any representation or warranty as to the accuracy or completeness of the Evaluation Material. You agree that neither the Debtor nor the Receiver nor their representatives shall have any liability to you or any of your Representatives resulting from the use of, or reliance on, the Evaluation Material. You agree that if you determine to engage in a transaction with the Receiver, such determination will be based solely on the terms of any definitive written agreement covering that transaction and on your own investigation, analysis and evaluation of the transaction.

You agree that damages may not be a sufficient remedy for any breach of this Agreement by you or your Representatives, and that in addition to all other remedies, the Receiver shall be entitled to seek specific performance, injunctive relief or other equitable relief as a remedy for any such breach.

You agree that this Agreement, and any rights of the Debtor or Receiver hereunder, shall inure to the benefit of any party that enters into a transaction contemplated by the Sale Process.

The Receiver may disclose the existence of this agreement, the identities of the parties hereto and any other information in respect of this agreement, or a transaction proposed by any party hereto, to the extent required in connection with the Receivership Proceedings or applicable laws, to any other person.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. This Agreement and the rights and obligations of the parties will terminate two years from the date hereof.

Please indicate your agreement with the foregoing by signing and returning one copy of this agreement to:

**[BDO CANADA LIMITED CONTACT INFORMATION]**

Yours very truly,

**10268054 CANADA CORP., by its court  
appointed receiver BDO Canada Limited., and  
not in any other capacity**

Per: \_\_\_\_\_

Name:

Title:

Confirmed and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2021

▶ **[Potential Bidder Organization Name]**

Per: \_\_\_\_\_

Name:

Title:

(I have the authority to bind the corporation)

**TAB B**



Court File No. CV-20-00652174-00CL

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

B E T W E E N:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

- and -

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**FIRST REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY**

**AS COURT APPOINTED RECEIVER**

**February 22, 2021**

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## INTRODUCTION AND PURPOSE OF THIS REPORT

### Introduction

1. By Order of the Honourable Madam Justice Dietrich of the Ontario Superior Court of Justice (the "**Court**") dated January 14, 2021 (the "**Receivership Order**"), BDO Canada Limited ("**BDO**") was appointed as the Court-appointed receiver (in such capacity, the "**Receiver**") of all of the assets, undertakings and properties (collectively, the "**Assets**") of 10268054 Canada Corp., (the "**Company**" or "**102 Corp.**"), pursuant to the application made by Centurion Mortgage Capital Corporation ("**Centurion**").
2. As per the endorsement of Justice Dietrich, of January 14, 2021, the appointment date of the Receiver was deferred by one week to January 21, 2021 to provide the Company with an opportunity to obtain an offer for the sale of the Assets and avoid the appointment of the Receiver. The Company was unable to secure an offer for the Assets and the Receivership Order became effective January 21, 2021 at 12:00 pm.
3. The Company's principal asset is a partially completed 2 and 3 story, 42 unit stacked condominium townhouse complex development known as 135 Mandrake Street (the "**Project**"). The Project consists of approximately 53,217 square feet of net saleable area plus 55 above grade parking spaces on a 1.05 acre lot (the "**Real Property**").
4. 102 Corp. is a single purpose entity incorporated in Canada by Dream Maker Developments Inc. for the sole purpose of developing the Project. The Project is currently under construction and it appears that certain site servicing work has been completed.
5. The Receiver was provided a schedule of deposits received by the Company's solicitor, Miller Thomson LLP ("**MT**"), that shows 11 condominium units have been pre-sold (the "**Pre-Construction Sales**") and agreements of purchase and sale have been executed between 102 Corp. and the condominium unit purchasers (the "**MT Deposit Report**"). The MT Deposit Report shows that MT holds \$95,000, in trust in respect of the deposits received from the Pre-Construction Sales. This information is inconsistent with prior Pre-Construction Sales reports prepared by the Project Monitor (defined herein) and delivered to Centurion as further described below.
6. Isaac Olowolafe ("**Olowolafe**") is the principal of the Company and the sole officer and director.

7. This First Report (defined below), and other all court materials and orders issued and filed in these receivership proceedings are or will be made available on the Receiver's case website at: <https://www.bdo.ca/en-ca/extranets/10268054canadacorp/> and will remain available on the website for a period of six (6) months following the Receiver's discharge.

#### **Purpose of the Report**

8. The purpose of the Receiver's First Report to Court dated February 22, 2021 (the "**First Report**") is to:
- (a) provide information to the Court with respect to the Receiver's activities since its appointment; and
  - (b) to request an Order:
    - (i) requiring 102 Corp. and Olowolafe to immediately comply with the terms of the Receivership Order and to provide the Receiver with the books and records of the Company that have been requested and remain outstanding;
    - (ii) requiring Olowolafe to attend on an examination under oath conducted by the Receiver or other authorized person, to answer questions concerning 102 Corp.'s affairs;
    - (iii) authorizing the Receiver, at its discretion, to take steps to assign 102 Corp. into bankruptcy to make use of the investigative powers contained in the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**");
    - (iv) approving the activities of the Receiver as set out in the First Report; and
    - (v) such further and other relief this Honourable Court may deem just.

#### **Disclaimer**

9. This First Report is prepared solely for the use of the Court for the purpose of assisting the it in making a determination whether to: (i) issue an order compelling Olowolafe to deliver to the Receiver the books and records that remain outstanding; (ii) expanding the Receiver's powers to examine Olowolafe under oath; (iii) granting the Receiver the power to assign the Company into bankruptcy at the Receiver's discretion; (iv) approve the actions and conduct of the Receiver as set out in this First Report; and (v) grant any other ancillary relief the Court deems just.

10. Except as otherwise described in this First Report:
- (a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
  - (b) the Receiver has not conducted an examination or review of any financial forecast and projections in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
11. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

#### **ACTIVITIES OF THE RECEIVER**

12. Since its appointment, the Receiver has:
- (a) attended at the Real Property, secured the site with additional fencing and posted signs advising parties that access is prohibited;
  - (b) prepared the statutory notices pursuant to sections 245 and 246 of the BIA, filed same with the Office of the Superintendent of Bankruptcy and mailed the notices to all known creditors of the Company;
  - (c) served the Receivership Order upon Olowolafe's counsel;
  - (d) demanded (directly and through its counsel) that Olowolafe deliver the books and records of the Company to the Receiver;
  - (e) obtained insurance coverage over the Real Property;
  - (f) through its counsel, Robins Appleby LLP, registered the Receivership Order against title to the Real Property at the land registry office; and
  - (g) commenced the Sales Process as described in the Receiver's pre-filing report.

## DEMAND FOR BOOKS AND RECORDS

### Receiver's Efforts to Obtain Books and Records

13. The Receiver requires the books and records of the Company to amongst other things, notify creditors of the receivership, compile relevant historical financial data to assist prospective purchasers in evaluating the Project, understand the Assets of the Company in order to realize upon them and to determine whether any funds were misappropriated from 102 Corp. to potentially assert a claim to those funds.
14. The Receiver has made numerous unsuccessful attempts to obtain the Company's books and records (including the bank statements) from Olowolafe including:
  - (a) On January 19, 2021, the Receiver emailed the Company's counsel an information request listing (the "**Information**" or the "**Information Listing**") and asked counsel to send the Information Listing to Olowolafe (the "**Jan 19 Email**"). The Information requested included bank statements, bank account numbers, information related to financial institutions at which the Company held bank accounts (together the "**Bank Information**"), agreements of purchase and sale and the Company's accounting information and general ledger. A copy of the Jan 19 Email together with the Information Listing is appended hereto as **Appendix "A"**.
  - (b) On January 22, 2021 the Receiver had a telephone conversation with the Company's counsel and requested the Information be provided to the Receiver. On this same date the Receiver resent the Information Listing to the Company's counsel and advised:

*"we are urgently requesting the details of the bank accounts held by the company" (the "**Jan 22 Email**").*

A copy of the Jan 22 Email is appended hereto as **Appendix "B"**.
  - (c) On January 25, 2021, the Receiver wrote the Company's counsel and wrote:

*"Per our last conversation, you advised that you should be able to provide details of bank accounts before the end of the weekend" (the "**Jan 25 Email**").*

Counsel to the Company advised that he was:

*"getting that information today from the client".*

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Olowolafe was copied on the correspondence. A copy of the Jan 25 Email is appended hereto as **Appendix "C"**.

- (d) On January 25, 2021, the Receiver requested a call with the Olowolafe. Olowolafe did not respond to the Receiver. On January 26, 2021, counsel to the Company advised that Olowolafe required "*a little more clarity*" as to the Receiver's information requests and advised that the Company was a "*special purpose vehicle whose only asset is the subject property*" (the "**Jan 26 Email**"). Attached to the Jan 26 Email were copies of the mortgages against the property and the title summary. The Receiver responded to the Jan 26 Email reminding counsel that the Information Listing had been previously provided and offered to attend at the Company's office to obtain the Information if necessary. Counsel stated that he had missed the Information List and requested a call to discuss "*a stalking bid*" to purchase the Real Estate. Olowolafe was included on the Jan 26 Email exchange. A copy of the Jan 26 Email is appended hereto as **Appendix "D"**.
- (e) On January 27, 2021 the Receiver's counsel wrote to the Company's counsel and again demanded the books and records (the "**Jan 27 Email**"). Counsel advised that should the Company not provide the books and records, the Receiver would bring a motion to compel the Olowolafe to deliver the books and records to the Receiver. A copy of the Jan 27 Email is appended hereto as **Appendix "E"**.
- (f) On January 28, 2021, counsel to the Company provided information related to the creditors which allowed the Receiver to issue its statutory notices however not all of the Information requested was provided. The Bank Information was not provided.
- (g) On January 29, 2021 two representatives of the Receiver attended a telephone call with Olowolafe and the Company's counsel wherein the Receiver discussed each item on the Information Listing with Olowolafe who committed to providing the outstanding Information (the "**Jan 29 Phone Call**"). On the Jan 29 Phone Call the Receiver asked Olowolafe whether the development charges associated with the Project had been paid to the Town of Ajax (the "**Town**"). Olowolafe advised that the development charges had been paid.

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- (h) On February 3, 2021 Olowolafe provided the Receiver: (i) a bank account number for a Bank of Nova Scotia (“**Scotiabank**”) account, (ii) an email address ([info@dreamto.ca](mailto:info@dreamto.ca)) which Olowolafe indicated was the contact information for the insurance company which was owned by him, (iii) information related to purported payments in respect of the Project and (iv) schematics and floor plans related to the Project.
- (i) On February 5, 2021, the Receiver’s counsel wrote to Company’s counsel asking that all requested Information including the Company’s bank statements be provided by February 8, 2021 (“**Feb 8 Deadline**”) failing which the Receiver would bring a motion to compel the Olowolafe to provide the Information (the “**Feb 5 Email**”). A copy of the Feb 5 Email is appended hereto as **Appendix “F”**.
- (j) On February 9, 2021 at 12:17 am, just after the Feb 8 Deadline, Olowolafe emailed certain books and records to the Receiver however the outstanding Bank Information and other accounting information was not provided (the “**Feb 9 Email**”). In the Feb 9 Email Mr. Olowolafe stated:

*“Here is as much info I could get.....*

*In regard to bank they are ordering statements since I didn’t have online banking.*

*Taxes none of the FS [Financial Statements] have been done yet or HST*

*Agreements I am waiting on lawyers to send....”*

The email included: (i) 3 agreements of purchase and sale, (ii) a listing of Pre-Construction Sales deposits received, (iii) Project budget information, (iv) information related to Tarion and (v) valuation information. A copy of the Feb 9 Email is appended hereto as **Appendix “G”**.

- (k) On February 10, 2021 the Receiver’s Counsel wrote to Olowolafe and advised that the following Information remained outstanding (the “**Feb 10 Email**”). The Feb 10 Email is appended hereto as **Appendix “H”**:

*“Bank Statements – We appreciate you indicated you did not have online access. If you did not have online access, we suspect the banks mailed your paper bank statements. Please provide these immediately.*



*Accounting information – Please provide the name of the accounting program used by you and your accounting staff together with the data files. We assume all payments made by the Company were processed through some sort of accounting software.*

*Accountant – Please provide the name and contact information for your internal and external accountant.*

*Agreements of purchase and sale – You have provided 3 agreements of purchase and sale. Based upon the deposits, it appears there were 11 sales. Please provide all of the agreements.*

*Uses of Cash – Please provide a reconciliation of how the funds obtained from the various lenders were used.”*

- (l) On February 11, 2021, the Company's counsel indicated that he was assisting Olowolafe in addressing the Feb 10 Email. On February 12, 2021 Olowolafe advised that he was:

*“given online statements they are being downloaded so I can upload it. So I can send. Also, I am getting verification of where the first advance was done as my account for this project wasn't open at the time” (the “Feb 12 Email”).*

A copy of the Feb 12 Email is appended hereto as **Appendix “I”**.

- (m) On February 16, 2021, the Receiver's counsel advised Olowolafe that it would proceed with a motion to compel him to cooperate with the Receiver and provide the requested Information (the “Feb 16 Email”). In response to the Feb 16 Email, Olowolafe stated:

*“Can we discuss this please as my intentions is not to make this matter worst” [sic].*

A copy of the Feb 16 Email is appended hereto as **Appendix “J”**.

- (n) On February 18, 2021, the Receiver's counsel wrote to Olowolafe stating that Olowolafe had not provided the bank statements or the agreements of purchase and sale, both of which did not require a significant amount of effort based upon his representation (i.e. downloading bank statements and waiting for counsel to send the agreements of purchase and sale) (the “Feb 18 Email”). The Receiver's counsel also advised that the Receiver intended to bring a motion on March 2, 2021 to advise the court of Olowolafe's lack of cooperation. A copy of the Feb 18 Email is appended hereto as **Appendix “K”**.

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- (o) On February 22, 2021, the Receiver wrote to Olowolafe and asked that he respond to various questions related to the transactions in the Operating Account (defined herein) (the “**Feb 22 Email**”). Attached to the Feb 22 Email was a summary of the bank transactions (the “**Account History**”). The Feb 22 Email and Account History are attached hereto as **Appendix L**.

#### **Listing of Books and Records Required**

- 15. The books, records and other information required of Olowolafe are:
  - (a) complete bank statements and cancelled cheques for all bank accounts maintained by the Company since its inception;
  - (b) identification of all bank accounts maintained by the Company;
  - (c) a summary of all sources and uses of cash including funds advanced by the various lenders and other parties;
  - (d) the most current electronic accounting data files of the Company;
  - (e) any other records related to the assets, liabilities and financial affairs of the Company;
  - (f) the most recent trial balance and general ledger for the Company;
  - (g) contact information for the Company's external accountant;
  - (h) contact information for the Company's internal accountant; and
  - (i) all agreements of purchase and sale related to the sale of the condominium units.

#### **EXPANSION OF THE RECEIVER'S POWERS**

- 16. The Receiver has reviewed the information provided by the Company and Olowolafe together with information it obtained from other sources and has found various inconsistencies. Additionally, the Receiver cannot determine from the limited financial information it has obtained where funds totaling \$7.048 million advanced by Centurion under a construction loan (the “**Construction Loan**”) were deposited and whether those funds were used to fund the Project as required.

17. Inconsistencies include, but are not limited to, the Pre-Construction Sales, the use of the funds advanced under the Construction Loan and the unusual activity in the Company's operating bank account, Scotiabank account number 22152 00932 11 (the "**Operating Account**").

#### **Banking Inconsistencies and/or Irregularities**

18. The Company advised the Receiver that its sole bank account is the Operating Account. Information obtained from Scotiabank indicates the Operating Account was opened on November 22, 2018. Centurion's first and only advance under the Construction Loan totaling approximately \$7.048 million (the "**First Advance**") was dated December 20, 2018 and executed by the parties on December 21, 2018; almost a month after the Operating Account was opened. However, in Olowolafe's Feb 12 Email he stated that he was getting verification of where the First Advance was deposited as his bank accounts for the Project were not yet open. Copies of the Operating Account history showing when the account was opened, and Centurion's Statement of Advance are attached hereto as **Appendices "M"** and **"N"**.
19. Despite repeated efforts to obtain the bank statements from the Company, the Receiver was able to obtain bank statements, without cheque copies, from Scotiabank for the Operating Account from the opening of the account on November 22, 2018 to January 29, 2021. The Receiver has summarized the activity in the Operating Account (referred to in this Report as the Account History) which is included hereto as **Appendix "L"**.
20. The transaction activity in the Operating Account shows a high volume of bank account transfers between 12 different bank accounts identified by the Receiver. Of the 12 different bank accounts, it appears that 7 of the accounts are Scotiabank accounts (they have similar bank account numbers to that of the Operating Account) while the other 5 may be personal bank accounts or corporate accounts, none of which Olowolafe has identified as belonging to the Company. Based on the transaction activity, approximately net \$2.184 million has been transferred out of the Operating Account into the other Scotiabank accounts. Over \$2.224 million has been transferred to 2 of the 7 other Scotiabank bank accounts. The Receiver notes that on July 31, 2019 a deposit was received via bank account transfer for over \$1.442 million dollars from an undetermined source which was subsequently transferred out of the Operating Account to the other Scotiabank accounts. The Receiver finds no evidence of the First Advance being deposited into the Operating Account.

### Project Payment Inconsistencies

21. The Construction Loan was advanced on a cost to complete basis, and the costs to complete the Project could not exceed \$20,510,000. At the date of the First Advance, the Company had reportedly invested \$4,434,394 in the Property and Project of its own capital.
22. The Operating Account transaction activity only shows 11 cheques clearing the bank from November 22, 2018 to January 29, 2021. Based on an "Invoice Tracking Log" provided by the Company which seemingly tracks supplier invoices and payments, the Receiver can definitively confirm payments to 3 suppliers via cheques 2, 5 and 6 in the amounts of \$386,139.24, \$78,706.55 and \$8,949.60 respectively. Cheque 2 was paid to Kapp Infrastructure and cleared the account on January 15, 2019. Cheques 5 and 6 cleared the Operating Account on March 29, 2018 and were paid to Kapp Infrastructure Inc. and OZA Inspections respectively. Of the 11 cheques, 3 cheques numbered 203, 242 and 243 are negotiated for exactly \$10,000.00 each in May 2020. Cheque 243 appears to have been reversed as a result of an internal bank error.
23. The Receiver has reviewed the invoicing and payment history included in the Invoice Tracking Log. Project costs reportedly incurred by the Company following the date of the First Advance total \$367,262.81 (\$87,621.80 represents a 10% holdback, plus HST, on the "hard costs" of construction). Total payments by cheque out of the Operating Account, (excluding payment to Kapp Infrastructure Inc totaling \$386,139.24 for work completed prior to the First Advance) and inclusive of the 2 cheques suspiciously negotiated for \$10,000 each, total \$165,705.57, ostensibly leaving an estimated outstanding accounts payable balance of \$201,557.24.
24. On the Jan 29 Phone Call, Olowolafe represented to the Receiver that the development charges, parkland levy and cash security for letters of credit with the Town in respect of landscaping and engineering combined totaling over \$2.9 million (collectively the "**Development Charges**") had been paid. Upon further investigation by the Receiver with the Town, the Receiver has discovered that the Development Charges have not been paid to the Town. Attached as **Appendix "O"** is an email from the Town dated February 2, 2021 where the Town confirms that the Company has not paid the Development Charges.
25. If the Company apparently incurred \$367,262.81 in costs following the First Advance, of which it paid \$165,705.57 and the Company did not pay the Development Charges of \$2.9 million as required, the Receiver is perplexed as to the use of funds from the First Advance of \$7.048 million. The Operating Account only had a credit balance of \$51.87 at the

receivership date and there has been limited construction completed on the Project. Based on the financial information available, the Receiver is unable to determine what happened with the funds from the First Advance, the use of funds from the First Advance or whether a significant sum of money has been misappropriated from 102 Corp.

### **Pre-Construction Sale Inconsistencies**

26. Conditions precedent to each advance under the Construction Loan, included among other things:
- (a) confirmation of at minimum 16 of 42 units pre-sold, to bona fide arm's length purchasers to resident Canadians, for at minimum \$9.5 million in Net Sale Proceeds; and
  - (b) the borrower shall have retained a quantity surveyor (the "**Project Monitor**") acceptable to the lender and among many of the Project Monitor duties is to review and confirm the pre-sales amount.

In support of the First Advance, the Project Monitor produced a report dated December 20, 2018 (the "**PM Report**") which states at page 5

*"We understand the Lender requires a minimum of 16 firm pre-sold units, at a minimum of \$9,500,000 in Net Sale Proceeds. Current sales are 19 units and net revenue of \$10,426,549."*

*"We have not yet received a trust account summary to confirm the deposits currently held. The Borrower has advised that Miller Thomson LLP has been retained to hold the deposits in trust. The Borrower is anticipating \$220,000 in purchaser deposits shortly."*

Further, the PM Report refers the reader on Page 8 to Section 11.1 of the report where it provides a list of the pre-sold units, pricing and the deposit amounts. Section 11.1 of the report lists sales for 19 units as opposed to 16 units for net sale proceeds of \$11,326,000 with deposits on the 19 pre-sold units totaling \$230,000. A copy of the Section 11.1 list of pre-sold units extracted from the PM Report is included hereto as **Appendix "P"**.

As stated earlier, the MT Deposit Report shows 11 condominium units have been pre-sold and that MT holds \$95,000 in trust in respect of the deposits received from the pre-Construction Sales. This information is inconsistent with what had been reported to Centurion by the Company and confirmed by the Project Monitor. A copy of the MT Deposit Report is appended hereto as **Appendix "Q"**.

27. An individual has contacted the Receiver and advised he has purchased a unit and provided the agreement of purchase and sale dated September 29, 2020 for unit 22 (the “Unit 22 APA”). The PM Report (dated December 20, 2018) discloses a different purchaser for unit 22 with a different purchase price while the MT Deposit Report does not report the unit as sold. A copy of the Unit 22 APA is appended hereto as **Appendix “R”**.
28. Based upon the Company’s lack of cooperation to date and inconsistencies in the information and responses provided by Olowolafe, the Receiver believes an examination of Olowolafe under oath is necessary. Additionally, the Receiver requests its powers be expanded to include the ability to assign the Company into bankruptcy, at the Receiver’s discretion, to potentially make use of the investigative powers contained in the BIA. In the circumstances, the Receiver is requesting that its powers be expanded in order to further investigate 102 Corp.’s affairs and to review and determine if any additional Assets may be realized upon to maximize a recovery for 102 Corp.’s creditors.

#### **SUMMARY AND RECOMMENDATIONS**

29. Based on the foregoing, the Receiver respectfully recommends that the Court issue an Order:
  - (a) approving the First Report and the activities and conduct of the Receiver outlined herein;
  - (b) compelling Olowolafe to provide the Receiver with the books and records of 102 Corp. that have been requested by the Receiver and remain outstanding in accordance with the timeline set out in the draft Order;
  - (c) expanding the Receiver’s powers to allow it to examine Olowolafe under oath;
  - (d) granting the Receiver the power to assign the Company into bankruptcy, at its discretion; and
  - (e) such further and other relief this Honourable Court may deem just.

All of which is respectfully submitted this 22 day of February 2021.

**BDO CANADA LIMITED,  
in its capacity as the Court-appointed Receiver of 10268054  
Canada Corp. and not in its personal or corporate capacity**

Per:



---

Name: Gary Cerrato, CIRP, LIT  
Title: Senior Vice President

Court File No: CV-20-006521714-00CL

CENTURION MORTGAGE CAPITAL CORPORATION

- and -

10268054 CANADA CORP. ET AL

Plaintiff

Defendants

---

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

PROCEEDING COMMENCED AT TORONTO

---

**FIRST REPORT OF BDO CANADA LIMITED, IN ITS  
CAPACITY AS COURT APPOINTED RECEIVER**

---

**ROBINS APPLEBY LLP**

Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, Ontario M5H 1T1

**DOMINIQUE MICHAUD LSO No.: 56871V**

Tel: (416) 360-3795

Fax: (416) 868-0306

[dmichaud@robapp.com](mailto:dmichaud@robapp.com)

**SAMUEL MOSONYI LSO No.:78085A**

Tel: (416) 360-3356

[smosonyi@robapp.com](mailto:smosonyi@robapp.com)

*Lawyers for the Receiver*



**TAB C**

Court File No.: CV-20-00652174-00CL

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

<b>THE HONOURABLE MR.</b>	)	<b>TUESDAY, THE 2<sup>ND</sup></b>
	)	
<b>JUSTICE KOEHNEN</b>	)	<b>DAY OF MARCH, 2021</b>

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

**and**

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**ORDER**

**THIS MOTION** made by BDO Canada Limited ("**BDO**"), in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of 10268054 Canada Corp. ("**102co**") for the relief set out in the Notice of Motion dated February 24, 2021, was heard this day by videoconference as a result of the Covid-19 pandemic.

**ON READING** the Motion Record of the Receiver and the First Report of the Receiver dated February 22, 2021 (the "**Receiver's First Report**") and on hearing the submissions of counsel for the Receiver and any such other counsel or individuals as were present, on consent of the Defendants, no one appearing for any other person on the service list, although properly served as evidenced by the Affidavit of Wendy Lee sworn February 24, 2021, filed.

**SERVICE**

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 hereof.

**DELIVERY OF THE BOOKS AND RECORDS TO THE RECEIVER**

2. **THIS COURT ORDERS** that 102co and Mr. Temitope Olowolafe a.k.a Isaac Olowolafe (“**Olowolafe**”), the sole officer and director of 102co, are required to deliver to the Receiver the following books and records of the Companies and other information on or before 5:00 pm on March 8, 2021:

- (a) complete bank statements and cancelled cheques for all bank accounts maintained by 102co;
- (b) identification of all bank accounts maintained by 102co;
- (c) detailed accounts payable listings with names, addresses and amounts due to the creditors;
- (d) detailed accounts receivables listing with names and addresses of customers and amounts due to the Companies;
- (e) accounting information, including the name of the accounting program used by 102co together with the data files;
- (f) the name and contact information of 102co’s internal and external accountant;
- (g) copies of each agreement of purchase and sale entered into by 102co in respect of the Project;
- (h) a detailed reconciliation of how the funds obtained from the various lenders were used by 102co, including the loan proceeds advanced by Centurion Mortgage Capital Corporation that were allocated but not used in the funding of Development Charges and other fees to be paid to Town of Ajax, the funding of Letters of Credit with the town of Ajax and the payment of a Parkland Levy; and

- (i) any other records related to the assets, liabilities and financial affairs of the Companies.

3. **THIS COURT ORDERS** that 102co and Olowolafe shall immediately comply with all of the provisions of the Order of the Honourable Madam Justice Dietrich dated January 14, 2021 (the "**Receivership Order**").

#### **ADDITIONAL POWERS OF THE RECEIVER**

4. **THIS COURT ORDERS** that Olowolafe attend on an examination under oath conducted by the Receiver or other authorized person, to answer questions concerning 102co's affairs, on a date on or before March 19, 2021 that is agreeable by counsel for the Receiver and Olowolafe.

5. **THIS COURT ORDERS** that the Receiver is authorized but not obligated to take steps to assign 102co into bankruptcy in the Receiver's discretion.

#### **RECEIVER'S ACTIVITIES**

6. **THIS COURT ORDERS** that the First Report and the activities of the Receiver set out in the First Report are hereby approved.

---



**CENTURION MORTGAGE - and-  
CAPITAL CORPORATION**

**10268054 CANADA CORP. ET AL**

*Plaintiff*

*Defendants*

Court FileNo.:CV-20-00652174-00CL

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

PROCEEDING COMMENCED AT **TORONTO**

**ORDER**

**ROBINS APPLEBY LLP**

Barristers+ Solicitors  
2600 - 120 Adelaide Street West  
Toronto ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**

Email: dmichaud@robapp.com  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**

Email: jjamil@robapp.com  
Tel: (416) 360-3783

Lawyers for the Receiver, BDO Canada Limited

**TAB D**

**ASSET PURCHASE AGREEMENT**

**BETWEEN**

**BDO CANADA LIMITED, solely in its capacity as Court  
appointed receiver and manager of 10268054 CANADA CORP., and not in its personal  
capacity**

**AND**

**12931109 CANADA INC.**

**MADE AS OF**

**May 17, 2021**

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**ASSET PURCHASE AGREEMENT**

**THIS AGREEMENT** is made as of May 17, 2021

BETWEEN

**12931109 CANADA INC.**,  
a corporation incorporated  
under the laws of Canada  
(the “**Purchaser**”),

- and -

**BDO CANADA LIMITED, solely in its capacity as court  
appointed receiver and manager of 10268054 CANADA  
CORP., and not in its personal capacity**

**WHEREAS** on January 14, 2021, the Court granted an Order (the “**Receivership Order**”) appointing BDO Canada Limited (the “**Receiver**”) as receiver and manager of the assets, undertakings and properties of 10268054 Canada Corp. (“**102 Corp**”).

**AND WHEREAS** on January 14, 2021, pursuant to the Endorsement of Madam Justice Dietrich, the Receivership Order was deferred for one week and became effective January 21, 2021 at 12:00 pm.

**AND WHEREAS** pursuant to the Receivership Order, the Receiver was authorized to market and sell the assets, undertakings and properties of 102 Corp.

**AND WHEREAS** pursuant to the Receivership Order, the Court approved and authorized among other things, a process under which offers would be solicited for the sale of all, substantially all or one or more components of 102 Corp’s assets and business as set out in the Receiver’s Pre-Filing Report (the “**Sale Process Order**”).

**AND WHEREAS** the Purchaser desires to purchase and assume the Purchased Assets (as defined herein) upon and subject to the terms and conditions set out in this Agreement.

**NOW THEREFORE**, in consideration of the covenants and agreements herein contained, the parties agree as follows:

**ARTICLE 1 - INTERPRETATION**

**1.01 Definitions**

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“**Affiliates**” means, with respect to any Person, any other Person that controls or is controlled by or is under common control with the referent Person.

“**Agreement**” means this agreement, including its recitals and schedules, as amended from time to time.

“**Applicable Law**” means:

- (i) any applicable domestic or foreign law including any statute, subordinate legislation or treaty, as well as the common law; and
- (ii) any applicable and enforceable rule, requirement, order, judgment, injunction, award or decree of a Governmental Authority.

“**Approval and Vesting Order**” means an order of the Court substantially in the form attached hereto as **Exhibit A**: (i) approving the sale of the Purchased Assets by the Receiver to the Purchaser pursuant to the terms of this Agreement; (ii) terminating all previous purchase agreements in respect of the Purchased Assets; and (iii) providing for the vesting of the right, title, benefit and interest of 102 Corp in and to the Purchased Assets in and to the Purchaser, free and clear of all Liens, other than the Permitted Encumbrances.

“**Assigned Contracts**” means those Contracts and Permits set out in **Exhibit B**.

“**Assignment and Assumption Agreement**” means an agreement pursuant to which the Receiver will assign the Assigned Contracts to the Purchaser and the Purchaser will assume the Assumed Liabilities at the Time of Closing, substantially in the form of the document set out in **Exhibit C**.

“**Assumed Liabilities**” has the meaning set out in Section 2.08.

“**Books and Records**” means all personnel records, inspection records, financial records, and other records, books, documents and data bases recorded or stored by means of any device, including in electronic form, relating to the business and the Purchased Assets as are in the possession or under the control of 102 Corp, but excluding the Project Records.

“**Business Day**” means a day other than a Saturday, Sunday, statutory or civic holiday in Toronto, Ontario.

“**Centurion**” means Centurion Mortgage Capital Corporation.

“**Centurion Mortgage**” has the meaning set out in Section 2.10(1)(e).

“**Centurion Shortfall**” has the meaning set out in Section 2.03(b);

“**Claim**” means any actual or threatened civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any loss, claim or demand relating thereto or resulting therefrom, or any other claim or demand of whatever nature or kind.

“**Closing Date**” means forty-five (45) days following the date of the Approval and Vesting Order, or such other date as may be agreed in writing between the parties hereto.

“**Contract**” means any contract, agreement, license, instrument or commitment recognized at law or equity, whether express or implied, or arising by a course of conduct or usage of trade.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Cure Costs**” means the amount of all monetary defaults, if any, existing in respect of any Assigned Contracts that are required to be paid in order to obtain the consent necessary to permit the assignment under 2.09(2).

“**Deposit**” has the meaning set out in 2.10(1)(a).

“**Due Diligence Condition**” has the meaning set out in 5.01.

“**Environmental Laws**” means any Applicable Law relating to the natural or indoor environment including those pertaining to (i) reporting, licensing, permitting, investigating, remediating or controlling the presence or Release or threatened Release of Hazardous Substances, or (ii) the use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including, for greater certainty, any such Applicable Law pertaining to occupational health and safety.

“**Excluded Assets**” has the meaning set out in Section 0.

“**Excluded Contracts**” means any Contracts or Permits that are not assignable as contemplated in Section 2.09(3), and any other Contracts or Permits that are not Assigned Contracts.

“**Governmental Authority**” means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant circumstances.

“**Hazardous Substance**” means any substance, material or emission whose storage, handling, use, transportation or Release is prohibited, controlled or regulated by any Governmental Authority having jurisdiction pursuant to Environmental Laws, including any contaminant or pollutant as defined in the *Environmental Protection Act* (Ontario).

“**HST Undertaking and Indemnity**” means the form attached to this Agreement as **Exhibit G**.

“**Intellectual Property**” means intellectual property of any nature and kind including all domestic and foreign trade-marks, business names, trade names, domain names, trading styles, patents, trade secrets, confidential information, Software, industrial designs and copyrights, whether registered or unregistered, and all applications for registration thereof, and inventions, formulae, recipes, product formulations and chemistries, processes and processing methods, technology and techniques and know-how.

“**Lands**” means the lands described as Parcel Register Identifier LT 26453-0695.

“**Liabilities**” means all costs, expenses, charges, debts, liabilities, commitments and obligations of any nature or kind, whether accrued or fixed, actual, absolute, contingent, latent or otherwise, matured or unmatured or determined or undeterminable, including those arising under any Applicable Law or Claim and those arising under any Contract or undertaking or otherwise, including any tax liability or tort liability of 102 Corp.

“**Liens**” means any lien (statutory or otherwise), mortgage, pledge, security interest (whether contractual, statutory or otherwise), hypothecation, trust or deemed trust (whether contractual, statutory, or otherwise), execution, levy, charge, encumbrance, interest in property, or other

financial or monetary claim which, in each case, in substance, secures payment or performance of an obligation, or similar charge of any kind.

“**Outside Date**” has the meaning set out in Section 5.05(b).

“**Permits**” means all permits, licences, certificates, approvals, authorizations, and registrations, or any item with a similar effect, issued or granted by any Governmental Authority.

“**Permitted Encumbrances**” means only those Liens related to the Purchased Assets set forth on **Exhibit D**.

“**Person**” means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or other entity.

“**Personal Information**” means information about an identifiable individual, but does not include the name, title or business address or telephone number of an employee of an organization.

“**Proceeds**” has the meaning set out in Section 6.07(1)(b)(i).

“**Project Address**” means the business activities and operations formerly carried on by 102 Corp located at 184-188 Salem Road (formerly 135 Mandrake Street), Ajax, Ontario.

“**Project Records**” means all plans and specifications in 102 Corp’s possession or under its control relating to the development of a condominium project located at the Project Address, which includes all such electrical, mechanical and structural drawings related thereto as are in the possession or under the control of 102 Corp.

“**Purchase Price**” has the meaning set out in Section 2.03.

“**Purchased Assets**” has the meaning set out in Section 2.01.

“**Release**” means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal.

“**Receiver**” has the meaning set out in the recitals hereto.

“**Receiver’s Certificate**” means a certificate signed by the Receiver substantially in the form attached as **Schedule A** to the Approval and Vesting Order confirming that: (i) the Purchaser has paid, and the Receiver has received payment of, the Purchase Price in relation to the purchase by the Purchaser of the Purchased Assets; and (ii) the conditions to be complied with at or prior to the Time of Closing as set out in Sections 5.02 and 5.03, respectively, have been satisfied or waived by the Receiver or the Purchaser, as applicable, pursuant to Section 5.04.

“**Receivership Order**” has the meaning set out in the recitals hereto.

“**Sale Process**” means the sale process approved by the Sale Process Order.

“**Sale Process Order**” has the meaning set out in the recitals hereto.

“**Tax Act**” means the *Income Tax Act* (Canada).

“**Time of Closing**” means 4:00 p.m. on the Closing Date, or such earlier or later time as agreed to by the parties.

“**Transfer Taxes**” has the meaning set out in Section 2.07.

#### 1.02 **Headings**

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Exhibits are to Articles and Sections of and Exhibits to this Agreement.

#### 1.03 **Extended Meanings**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any Person other than the Receiver and the Purchaser.

#### 1.04 **Capacity of Receiver**

The Receiver, in executing this Agreement, is entering into this Agreement solely in its capacity as the court appointed receiver and manager of 102 Corp, and not in its personal or any other capacity. The Receiver shall have no personal or corporate liability of any kind whether in contract, tort or otherwise.

#### 1.05 **Statutory References**

In this Agreement, unless something in the subject matter or context is inconsistent therewith or unless otherwise herein provided, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

#### 1.06 **Currency**

All references to currency herein are to lawful money of Canada.

## 1.07 **Exhibits**

The following are the Exhibits to this Agreement:

- Exhibit A** - Form of Approval and Vesting Order
- Exhibit B** - Assigned Contracts and Permits
- Exhibit C** - Form of Assignment and Assumption Agreement
- Exhibit D** - Permitted Encumbrances
- Exhibit E** - Other Excluded Assets
- Exhibit F** - Allocation of Purchase Price
- Exhibit G** - HST Undertaking and Indemnity
- Exhibit H** - Centurion Mortgage Terms

## **ARTICLE 2 - SALE AND PURCHASE**

### 2.01 **Assets to be Sold and Purchased**

Upon and subject to the terms and conditions hereof, the Receiver will sell to the Purchaser and the Purchaser will purchase from the Receiver, as of and with effect from the Time of Closing, all of the right, title, benefit and interest of 102 Corp in and to the following assets (collectively, the “**Purchased Assets**”):

- (a) the Lands;
- (b) all structures, erections, improvements, appurtenances and fixtures situate on or forming part of the Lands;
- (c) subject to Sections 2.08 and 2.09(3), and to the extent not otherwise included in this Section 2.01, the Assigned Contracts;
- (d) all Intellectual Property owned by 102 Corp that was used in connection with the Purchased Assets;
- (e) all pre-paid expenses and deposits relating to the Purchased Assets (other than deposits paid to suppliers or customers of 102 Corp) including all pre-paid taxes, local improvement rates and charges, water rates and other operating costs, all pre-paid purchases of gas, oil and hydro, and all pre-paid lease payments;
- (f) the Project Records; and
- (g) the Books and Records;

but excluding, for greater certainty, in each and every case the Excluded Assets (as hereinafter defined).


## 2.02 Excluded Assets

Notwithstanding Section 2.01 or any other provision in this Agreement to the contrary, 102 Corp will retain its right, title, benefit and interest in and to, and the Purchaser will have no rights with respect to the right, title, benefit and interest of 102 Corp in and to the following assets (collectively, the “**Excluded Assets**”):

- (a) the cash and cash equivalents, short-term investments, bank account balances, bank deposits, including any deposits posted in respect of letters of credit, and petty cash of 102 Corp;
- (b) all rights of 102 Corp to tax refunds, credits, rebates or similar benefits relating to the Purchased Assets;
- (c) the Excluded Contracts;
- (d) shares and other interests or capital of 102 Corp;
- (e) the tax records and insurance policies of 102 Corp;
- (f) any Claim of 102 Corp to reimbursement under any insurance policy applicable to 102 Corp;
- (g) Tarion bond no. 181020038 (the “**Tarion Bond**”) and master excess condominium deposit insurance policy no. 182310060, as amended by endorsement from time to time (the “**ECDI**” and collectively with the Tarion Bond, the “**Bonds**”);
- (h) Books and Records not pertaining primarily to the Purchased Assets;
- (i) all funds or deposits held by suppliers, customers or any other person in trust for or on behalf of 102 Corp;
- (j) any deposits held in trust by Miller Thomson LLP and paid by the purchasers of the condominium units in respect of the condominium project on the Lands; and
- (k) any other assets listed in Exhibit E.

## 2.03 Purchase Price

The aggregate purchase price payable by the Purchaser to the Receiver for the Purchased Assets excluding all applicable Taxes (such amount being hereinafter referred to as the “**Purchase Price**”) is an amount equal to a sum of the following:

- (a) 
- (b) plus the positive difference between (i) the amount of the liabilities owing to the Centurion and secured pursuant to a certain Charge/Mortgage registered as Instrument No. DR1762699; less (ii) any amounts to be distributed to Centurion by the Receiver in the receivership proceeding bearing court file number CV-20-



00652174-00CL on account of repayment of its loan to 102 Corp (the “**Centurion Shortfall**”); and

- (c) plus the amount of the Assumed Liabilities.

#### 2.04 **Allocation of Purchase Price**

The Purchase Price will be allocated among the Purchased Assets as set out in **Exhibit F**. The Receiver and Purchaser will make and file all tax returns and filings on a basis which is consistent with the amount and allocation of the Purchase Price.

#### 2.05 **Elections**

The Receiver and the Purchaser will on or before the Time of Closing jointly execute an election (if applicable), in the prescribed form and containing the prescribed information, to have subsection 167(1.1) of the *Excise Tax Act* (Canada) apply to the sale and purchase of the Purchased Assets hereunder so that no tax is payable in respect of such sale and purchase under Part IX of the *Excise Tax Act* (Canada). The Purchaser will file such election with the Minister of National Revenue within the time prescribed by the *Excise Tax Act* (Canada).

#### 2.06 **Property Taxes**

(1) No property taxes imposed on or with respect to the Purchased Assets will be adjusted. The Purchaser will be liable for and responsible for all property taxes relating to the Purchased Assets, regardless of when incurred, including all municipal realty taxes, assessments, levies and penalties of any nature or kind, and interest and costs thereon, including all levies and special charges set forth in the respective tax bills of any government taxation authority.

(2) The Purchaser shall, at its option, be entitled to continue any realty tax appeals, complaints, applications, or proceedings pending for any calendar year prior to the calendar year in which the Closing Date occurs and shall be entitled to receive from the municipality any payment resulting therefrom. To the extent the Receiver receives any of the aforementioned payments, it shall hold said payments in trust for the Purchaser and forthwith remit the payments to the Purchaser.

#### 2.07 **Transfer Taxes**

(1) The Purchaser will be liable for and, subject to Section 2.05, will pay, or will cause to be paid, all transfer, land transfer, value added, *ad-valorem*, excise, sales, use, consumption, goods or services, harmonized sales, retail sales, social services, or other similar taxes or duties (collectively, “**Transfer Taxes**”) payable under any Applicable Law on or with respect to the sale and purchase of the Purchased Assets under this Agreement. The Purchaser will prepare and file any affidavits or returns required in connection with the foregoing at its own cost and expense.

(2) The Purchaser shall indemnify and save harmless the Receiver and its employees, advisors and agents from all Claims incurred, suffered or sustained as a result of a failure by the Purchaser:

- (a) to pay any Transfer Taxes payable by the Purchaser; and/or

- (b) to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Purchased Assets.

## 2.08 Assumption of Liabilities

(1) At the Time of Closing, the Purchaser will assume and thereafter fulfil, perform and discharge when due the following Liabilities of 102 Corp outstanding as at the Closing Date (collectively, the “**Assumed Liabilities**”):

- (a) all Liabilities arising from or in connection with the Assigned Contracts, including any Cure Costs
- (b) all Liabilities arising from or in connection with any tax, levy, penalty, interest or costs for which the Purchaser is responsible pursuant to Sections 2.06 and 2.07 and any Permitted Encumbrances; and
- (c) all Liabilities relating to or arising from the Purchased Assets under Environmental Laws.

(2) In addition to any other provision for indemnification by the Purchaser contained in this Agreement, the Purchaser will, on and after the Closing Date, indemnify and save harmless the Receiver on its own behalf and as trustee for its Affiliates and its and their current and former directors and officers, employees, agents, advisors and representatives (including the Receiver) (collectively, the “**Indemnitees**”) from and against all Claims asserted against any of the Indemnitees in any way directly or indirectly arising from, relating to or in connection with any of the Assumed Liabilities (other than Claims arising from fraud, criminal activity or wilful misconduct on the part of the Indemnitees in connection with the transactions contemplated by this Agreement).

## 2.09 Assigned Contracts

(1) Subject to Section 2.09(2), the Purchaser, with the Receiver’s consent, will request any consents necessary to permit the assignment to the Purchaser of the Assigned Contracts. The Receiver will provide its reasonable cooperation to assist the Purchaser to obtain such consents, including providing financial and other information of 102 Corp requested by the Purchaser or party to such Assigned Contract.

(2) The Purchaser will be responsible for all Cure Costs in respect of any Assigned Contracts.

(3) Nothing in this Agreement will constitute an agreement to assign or an attempted assignment of any non-assignable rights or any Contracts or Permits for which any requisite consent or approval has not been obtained or which as a matter of Applicable Law or by its terms is not assignable.

## 2.10 Payment of Purchase Price

- (1) The Purchase Price will be satisfied by the Purchaser as follows:
- (a) [REDACTED] (the “**Initial Deposit**”), submitted by wire transfer of immediately available funds to an account specified by the Receiver, in trust, as a deposit to be held in a bank account at a Canadian chartered bank and paid as provided in Section 2.10(2)
  - (b) [REDACTED] (the “**Second Deposit**”) within two (2) Business Days following delivery by the Receiver to the Purchaser of a fully executed copy of this Agreement, by wire transfer of immediately available funds to an account specified by the Receiver, in trust, as a deposit to be held in a bank account at a Canadian chartered bank and paid as provided in Section 2.10(2);
  - (c) [REDACTED] (the “**Third Deposit**”) within five (5) Business Days of the Receiver delivering the executed and entered Approval and Vesting Order to the Purchaser;
  - (d) [REDACTED] by wire transfer at the Time of Closing of immediately available funds to an account specified by the Receiver;
  - (e) A third Charge/Mortgage in favour of Centurion for the principal amount of the Centurion Shortfall (the “**Centurion Mortgage**”) on the terms and conditions as set out in Exhibit H attached hereto, and as otherwise agreed to by Centurion. If the Centurion Shortfall cannot be accurately determined prior to the Time of Closing, the Receiver may estimate the amount of the Centurion Shortfall which estimate shall constitute the registered principal amount of the Centurion Mortgage; and
  - (f) by the Purchaser assuming the Assumed Liabilities.
- (2) The Deposit paid to the Receiver by the Purchaser pursuant to Section 2.10(1)(a) will be paid:
- (a) to the Receiver at the Time of Closing, with any interest that has been paid by the applicable bank thereon being paid to the Purchaser, in each case net of any applicable bank fees or charges, if the sale and purchase of the Purchased Assets provided for herein is completed in accordance with the terms and conditions hereof;
  - (b) to the Receiver on or after the fifth Business Day after the date of termination of this Agreement, together with any interest that has been paid by the applicable bank thereon (net of any applicable bank fees or charges), if this Agreement is terminated by the Receiver pursuant to Section 5.05(a), Section 5.05(c) (unless with respect to a condition in Section 5.03(c) or (d)),

or Section 5.05(f) (where the Purchaser has failed to comply with its obligations under this Agreement); or

- (c) to the Purchaser on or after the fifth Business Day after the date of termination of this Agreement, together with any interest that has been paid by the applicable bank thereon (net of any applicable bank fees or charges), if this Agreement is terminated by the Purchaser pursuant to Section 5.05(a) or Section 5.05(b), or by the Receiver pursuant to Section 5.05(c) (solely with respect to a condition in Section 5.03(c) or (d)) or Section 5.05(f) (unless the Purchaser has failed to comply with its obligations under this Agreement),

provided that if the sale and purchase of the Purchased Assets provided for herein is not completed in accordance with the terms and conditions hereof and, prior to 10:00 a.m. on the fifth Business Day referred to in Section 2.10(2)(a) or (c), as the case may be, written notice is given by either the Receiver or the Purchaser to the other counterparty that such party in good faith disputes that the other is entitled to receive the Deposit and/or any accrued interest thereon, then the Deposit and all accrued interest thereon may, at the option of the Receiver, be paid into Court as soon as reasonably possible (net of any applicable bank fees or charges), and further provided that the Receiver shall be entitled to seek the direction of the Court at any time in respect of any matter relating to the Deposit, including the payment thereof to any Person.

#### 2.11 **Delivery of Purchased Assets**

At the Time of Closing, the Purchaser will take possession of the Purchased Assets where situated. The Purchaser acknowledges that the Receiver has no obligation to deliver possession of the Purchased Assets to the Purchaser at any location other than the Project Address.

### **ARTICLE 3 - REPRESENTATIONS AND WARRANTIES**

#### 3.01 **Receiver's Representations and Warranties**

The Receiver represents and warrants to the Purchaser that, as at the date hereof and as of the Closing Date:

- (a) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, the Receiver has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (b) subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated herein, this Agreement constitutes a valid and legally binding obligation of the Receiver, enforceable against the Receiver in accordance with its terms;
- (c) 102 Corp is registered under Part IX of the *Excise Tax Act* (Canada) with registration number 71099 8295 RT0001; and

- (d) 102 Corp is not a non-resident of Canada within the meaning of section 116 of the Tax Act.

### 3.02 **Purchaser's Representations and Warranties**

The Purchaser represents and warrants to the Receiver that:

- (a) the Purchaser is a corporation duly incorporated, organized and existing under the laws of Canada;
- (b) the Purchaser has the power, authority and right to enter into and deliver this Agreement and to carry out its obligations hereunder;
- (c) this Agreement constitutes a valid and legally binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms;
- (d) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein and the entering into of this Agreement in completion of the transactions contemplated herein will not breach its constating documents, any agreement binding on the Purchaser, or Applicable Laws relating to the Purchaser;
- (e) there are no orders or proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Purchaser affecting the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser;
- (f) no authorizations, consents or approvals of, or filing with or notice to, any Governmental Authority is required in connection with the execution, delivery or performance of this Agreement;
- (g) except for the Approval and Vesting Order, no consent, waiver, authorization or approval of any Person and no declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement;\
- (h) the Purchaser has available, or prior to the delivery of the Binding APA (as defined in the Sale Process) and at the Time of Closing will have, sufficient funding to enable the Purchaser to consummate the purchase of the Purchased Assets on the terms set forth herein and otherwise to perform all of the Purchaser's obligations under this Agreement;
- (i) the Purchaser is registered under Part IX of the *Excise Tax Act* (Canada) with registration number 765850144RT000; and
- (j) the Purchaser is not a non-resident of Canada within the meaning of section 116 of the Tax Act.

### 3.03 “As Is, Where Is”

(1) The Purchaser acknowledges and agrees that it is purchasing the Purchased Assets on an “as is, where is” basis and on the basis that the Purchaser has conducted to its satisfaction an independent inspection, investigation and verification of the Purchased Assets (including a review of title), Assumed Liabilities and all other relevant matters and has determined to proceed with the transaction contemplated herein and will accept the same at the Time of Closing in their then current state, condition, location, and amounts, subject to all Permitted Encumbrances.

(2) Except as otherwise expressly provided in Section 3.01, no representation, warranty or condition whether statutory (including under the *Sale of Goods Act* (Ontario), the *International Sale of Goods Contracts Convention Act* (Canada) and the *International Sale of Goods Act* (Ontario) or any international equivalent act which may be applicable to the subject matter pursuant to the provisions of this Agreement, including but not limited to the *United Nations Convention on Contracts for the International Sale of Goods*), or express or implied, oral or written, legal, equitable, conventional, collateral, arising by custom or usage of trade, or otherwise is or will be given including as to title, outstanding liens or encumbrances, description, fitness for purpose, merchantability, merchantable quality, quantity, condition (including physical and environmental condition), suitability, durability, assignability, or marketability thereof or any other matter or thing whatsoever, and all of the same are expressly excluded and disclaimed and any rights pursuant to such statutes have been waived by the Purchaser. The Purchaser acknowledges and agrees that it has relied entirely and solely on its own investigations as to the matters set out above and in determining to purchase the Purchased Assets and assume the Assumed Liabilities pursuant to this Agreement.

(3) The description of the Purchased Assets and Assumed Liabilities contained herein is for the purpose of identification only and the inclusion of any item in such description does not confirm the existence of any such items or that any such item is owned by 102 Corp. Except as otherwise explicitly set forth in Section 3.01, no representation, warranty or condition has been given by the Receiver concerning the completeness or accuracy of such descriptions and the Purchaser acknowledges and agrees that any other representation, warranty, statements of any kind or nature, express or implied, (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of 102 Corp or the quality, quantity or condition of the Purchased Assets) are specifically disclaimed by the Receiver.

(4) Any documents, materials and information provided by or on behalf of the Receiver to the Purchaser with respect to the Purchased Assets or Assumed Liabilities (including any confidential information memorandums, management presentations, or material made available in the electronic data room) have been provided to the Purchaser solely to assist the Purchaser in undertaking its own due diligence, and the Receiver has not made and is not making any representations or warranties, implied or otherwise, to or for the benefit of the Purchaser as to the accuracy and completeness of any such documents, materials or information or the achievability of any valuations, estimates or projections. The Purchaser acknowledges that it has not and will not rely upon any such documents, materials or information in any manner, whether as a substitute for or supplementary to its own due diligence, searches, inspections and evaluations. The Receiver and their respective Affiliates, directors, officers, employees, agents and advisors shall not be liable for any inaccuracy, incompleteness or subsequent changes to any such documents, materials or information. The Purchaser further acknowledges that the use of the documents may not be

possible without the Purchaser obtaining reliance or other assurances from the author of such documents directly and further that the documents may be subject to copyright or other property rights which may preclude their use by the Purchaser in whole or in part.

#### **ARTICLE 4 - COVENANTS**

##### **4.01 Covenants of the Receiver**

(1) The Receiver will ensure that the representations and warranties of the Receiver set out in Section 3.01 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Purchaser set out in Section 5.02 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

(2) The Receiver shall file with the Court, as soon as practicable after its execution and delivery of this Agreement, a motion seeking the Court's issuance of the Approval and Vesting Order.

##### **4.02 Covenants of the Purchaser**

(1) The Purchaser will ensure that the representations and warranties of the Purchaser set out in Section 3.02 are true and correct in all material respects at the Time of Closing and use reasonable commercial efforts to ensure that the conditions of closing for the benefit of the Receiver set out in Section 5.03 over which it has reasonable control have been performed or complied with in all material respects by the Time of Closing.

(2) The Purchaser will provide the Receiver with all information within its possession or control that the Receiver may reasonably request to assist the Receiver in obtaining the Approval and Vesting Order.

(3) The Purchaser will preserve the Books and Records delivered to it at the Time of Closing for a period of six years from the Closing Date, or for such other period as is required by any Applicable Law, and will permit the Receiver and their respective authorized representatives reasonable access thereto in connection with the affairs of 102 Corp, and the right to make copies thereof at their expense.

(4) The Purchaser shall make the necessary arrangements to replace any letters of credit or other security deposits posted or received by 102 Corp, the Receiver, or any other Person on their behalf, on or prior to the Time of Closing.

(5) The Purchaser will comply with the *Personal Information Protection and Electronic Documents Act* (Canada) and other similar Applicable Laws relating to privacy and the protection of Personal Information in respect of the Books and Records, Contracts and any other business and financial records related to the Purchased Assets.

## **ARTICLE 5 - CONDITIONS AND TERMINATION**

### **5.01 Due Diligence Condition – Non-Binding APA**

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following condition:

the Purchaser and its representatives shall have completed their due diligence in respect of the Purchased Assets and the Assumed Liabilities and the Purchaser shall be satisfied in its sole discretion with such due diligence on or prior to the Binding APA Deadline (as defined in the Sale Process).

(collectively, the “**Due Diligence Condition**”).

The Due Diligence Condition is for the exclusive benefit of the Purchaser and is to be performed, waived or complied with at or prior to the earlier of: (i) the submission of a Binding APA (as defined in the Sale Process), or (ii) the Binding APA Deadline.

### **5.02 Conditions for the Benefit of the Purchaser**

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Purchaser and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Receiver set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Receiver will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Receiver at or prior to the Time of Closing;
- (c) no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the sale and purchase of the Purchased Assets; and
- (d) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or any such appeal shall have been dismissed with no further appeal therefrom).

### **5.03 Conditions for the Benefit of the Receiver**

The sale by the Receiver and the purchase by the Purchaser of the Purchased Assets is subject to the following conditions, which are for the exclusive benefit of the Receiver and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Purchaser set forth in this Agreement will be true and correct in all material respects at the Time of Closing with the same force and effect as if made at and as of such time;



- (b) the Purchaser will have performed or complied in all material respects with all of the obligations and covenants of this Agreement to be performed or complied with by the Purchaser at or prior to the Time of Closing;
- (c) no action or proceeding in Canada will be pending by any third party to enjoin or prohibit the purchase and sale of the Purchased Assets;
- (d) the Approval and Vesting Order will have been granted by the Court and such order will not have been stayed, varied in any material respect, set aside or appealed (or any such appeal shall have been dismissed with no further appeal therefrom); and
- (e) the Purchaser will have paid or will have made arrangements, satisfactory to the Receiver, to pay all Cure Costs pursuant to Section 2.09(2).

#### 5.04 **Waiver of Condition**

The Purchaser, in the case of a condition set out in Section 5.02, and the Receiver, in the case of a condition set out in Section 5.03 (other than Section 5.03(d)), will have the exclusive right to waive the performance or compliance of such condition in whole or in part and on such terms as may be agreed upon without prejudice to any of its rights in the event of non-performance of or non-compliance with any other condition in whole or in part. Any such waiver will not constitute a waiver of any other conditions in favour of the waiving party. Such waiving party will retain the right to complete the purchase and sale of the Purchased Assets herein contemplated.

#### 5.05 **Termination**

This Agreement may be terminated, by notice given prior to or on the Closing Date:

- (a) by the Receiver or the Purchaser if a material breach of any representation, warranty, covenant, obligation or other provision of this Agreement has been committed by the other party and such breach has not been waived or cured within five (5) days following the date on which the non-breaching party notifies the other party of such breach;
- (b) by the Purchaser if a condition in Section 5.02 becomes impossible to satisfy prior to the Time of Closing or such later date as the parties may determine (the “**Outside Date**”) (other than through the failure of the Purchaser to comply with its obligations under this Agreement) and the Purchaser has not waived such condition;
- (c) by the Receiver if a condition in Section 5.03 becomes impossible to satisfy prior to the Time of Closing or such later date as the parties may determine (other than through the failure of the Receiver to comply with its obligations under this Agreement) and the Receiver has not waived such condition;
- (d) by the Receiver pursuant to Section 6.07(1)(a);
- (e) by written agreement of the Purchaser and the Receiver; or

- (f) by the Receiver or the Purchaser if the completion of the sale of Purchased Assets herein contemplated has not occurred (other than through the failure of the party seeking termination to comply with its obligations under this Agreement) on or before the Time of Closing.

#### 5.06 **Effect of Termination**

Each party's right of termination under Section 5.05 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 5.05, all further obligations of the parties under this Agreement will terminate, except that the obligations in Sections 2.10(2), 6.04, 8.03 and 8.04 will survive; provided, however, that if this Agreement is terminated by a party because of a material breach of a representation or warranty, covenant, obligation or other provision of this Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies with respect to such breach will survive such termination unimpaired.

### **ARTICLE 6 - CLOSING ARRANGEMENTS**

#### 6.01 **Closing**

The sale and purchase of the Purchased Assets will be completed at the Time of Closing at the offices of Robins Appleby LLP, 2600-120 Adelaide Street West, Toronto, Ontario M5H 1T1, provided that other than for tender purposes no physical closing is contemplated by the parties hereto and the parties agree that all closing documents and deliverables can be executed and exchanged by electronic means.

#### 6.02 **Receiver's Closing Deliveries**

On or before the Time of Closing, the Receiver will deliver or cause to be delivered to the Purchaser the following:

- (a) a certificate executed by the Receiver confirming that the representations and warranties of the Receiver in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Receiver to be performed prior to the Time of Closing have been performed in all material respects;
- (b) a statement of adjustments and an undertaking to readjust any customary adjustments to the Purchase Price, if necessary pursuant to the terms of this Agreement;
- (c) a copy of the issued and entered Approval and Vesting Order;
- (d) if available, the tax election as contemplated by Section 2.05 executed by the Receiver;

- (e) a bill of sale, duly executed by the Receiver, if necessary;
- (f) the Assignment and Assumption Agreement executed by the Receiver; and
- (g) such other documents or instruments as contemplated or required to be delivered by the Receiver pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

#### 6.03 **Purchaser's Closing Deliveries**

On or before the Time of Closing, the Purchaser will deliver or cause to be delivered to the Receiver the following:

- (a) payment of the Purchase Price to the Receiver as contemplated by Section 2.10(1).
- (b) the Centurion Mortgage and all security documents related thereto;
- (c) evidence, satisfactory to the Receiver, of the payment of or arrangements to pay all Cure Costs as contemplated by Section 2.09(2).
- (d) an undertaking to readjust the customary adjustments to the Purchase Price, if necessary pursuant to the terms of this Agreement;
- (e) a certificate executed by a senior officer of the Purchaser confirming that the representations and warranties of the Purchaser in this Agreement are true and correct in all material respects as of the Time of Closing and that the obligations of the Purchaser to be performed prior to the Time of Closing have been performed in all material respects;
- (f) if available, the tax election as contemplated by Section 2.05 executed by the Purchaser;
- (g) the Assignment and Assumption Agreement executed by the Purchaser;
- (h) if required, a land transfer tax affidavit;
- (i) the HST Undertaking and Indemnity; and
- (j) such other documents or instruments as contemplated or required to be delivered by the Purchaser pursuant to this Agreement, all of which shall be in form and substance satisfactory to the parties, acting reasonably.

#### 6.04 **Confidentiality**

Both prior to the Closing Date and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason thereafter, the Purchaser will not disclose to anyone or use for its own or for any purpose other than the purpose contemplated by this Agreement any confidential information concerning 102 Corp or the operations obtained by the Purchaser pursuant hereto, and will hold all such information in the strictest confidence and, if the sale and purchase of the Purchased Assets hereunder fails to occur for whatever reason, will return all documents,

records and all other information or data relating to 102 Corp or to the operations which the Purchaser obtained pursuant to this Agreement.

#### 6.05 **Delivery of Receiver's Certificate**

When the Receiver is satisfied that all conditions hereunder have been satisfied or waived, and all documents to be delivered under the terms hereof have been delivered at or before the Time of Closing, the Receiver will deliver an executed copy of the Receiver's Certificate to the Purchaser's counsel in escrow upon the sole condition of receipt by the Receiver of the amounts referred to in Section 2.10(1). All of the foregoing amounts will then be paid by the Purchaser, by wire transfer of immediately available funds to an account designated in writing by the Receiver for this purpose pursuant to Section 2.10(1) hereof. Following written confirmation of receipt by the Receiver of such funds (or such Person directed by the Receiver to receive such funds), the Receiver's Certificate will be released from escrow to the Purchaser. Upon such delivery, the closing will be deemed to have occurred at the Time of Closing. The Receiver will file a copy of the Receiver's Certificate with the Court on the next Business Day following the Closing Date and provide evidence of such filing to the Purchaser.

#### 6.06 **Planning Act**

This Agreement is subject to compliance with the *Planning Act* (Ontario). The parties agree that compliance with the *Planning Act* (Ontario) shall be the responsibility of the Purchaser at its costs. The Receiver agrees to execute all documents reasonably requested by the Purchaser in respect thereof.

#### 6.07 **Risk of Loss**

(1) Until the Time of Closing, the Purchased Assets will remain at the risk of the Receiver. If any destruction or damage in excess of \$2 million occurs to the Purchased Assets on or before the Time of Closing or if any or all of the Purchased Assets are appropriated, expropriated or seized by a Governmental Authority on or before the Time of Closing:

- (a) the Receiver will forthwith give notice thereof to the Purchaser, and the Receiver shall have the right to terminate this Agreement prior to the Time of Closing and shall notify the Purchaser in a reasonable period of time whether it is exercising this right; and
- (b) in the event the Receiver does not exercise its right of termination under Section 6.07(1)(a), the Purchaser will have the option, exercisable by notice to the Receiver on or before the Time of Closing:
  - (i) to reduce the Purchase Price by an amount equal to the proceeds of insurance (and, if any such policy provided for a deductible amount, by an amount equal to such deductible amount) or compensation for destruction or damage or appropriation, expropriation or seizure and business interruption with respect thereto (in this Section 6.07 referred to as the "**Proceeds**"), and to complete the purchase; or

- (ii) to complete the purchase without reduction of the Purchase Price, in which event all Proceeds will be payable to the Purchaser and all Claims of the Receiver to any such amounts not paid by the Closing Date will be assigned to the Purchaser.

(2) If the Purchaser elects to reduce the Purchase Price pursuant to Section 6.07(1)(b)(i), the Receiver will at the Time of Closing, acting reasonably, determine the amount of the reduction to the extent that it is then determinable and will undertake to adjust such amount after the Closing Date, if necessary.

## **ARTICLE 7 - SURVIVAL**

### **7.01 Survival**

No covenants, representations and warranties of each party contained in this Agreement will survive the completion of the sale and purchase of the Purchased Assets and assumption of the Assumed Liabilities hereunder, except for the covenants that by their terms are to be satisfied or survive after the Time of Closing (including without limitation Sections 2.07, 2.10(2), 4.02(3), 8.03, 8.04, and 8.16), which covenants will continue in full force and effect in accordance with their terms.

## **ARTICLE 8 - GENERAL**

### **8.01 Further Assurances**

Each of the Receiver and the Purchaser will from time to time at the request and expense of the other execute and deliver all such further documents and instruments and do all acts and things as the other party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

### **8.02 Time of the Essence**

Time is of the essence of this Agreement.

### **8.03 Fees, Commissions and other Costs and Expenses**

Each of the Receiver and the Purchaser will pay its respective legal and accounting costs and expenses and any real estate or other commissions incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred and will indemnify and save harmless the other from and against any Claim resulting from any broker's, finder's or placement fee or commission alleged to have been incurred as a result of any action by it in connection with the transactions under this Agreement.

### **8.04 Public Announcements**

Except as required by Applicable Law, no public announcement or press release concerning the sale and purchase of the Purchased Assets may be made by the Receiver or the Purchaser without the prior consent and joint approval of the Receiver and the Purchaser.

#### 8.05 **Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the successors and permitted assigns of the parties.

#### 8.06 **Entire Agreement**

This Agreement (including the agreements contemplated hereby) constitute the entire agreement between the parties with respect to the subject matter hereof and such agreements cancel and supersede any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement (including the agreements contemplated hereby).

#### 8.07 **Amendments and Waivers**

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

#### 8.08 **Assignment**

This Agreement may not be assigned by the Receiver or the Purchaser without the written consent of the other provided that the Purchaser may assign this Agreement without the consent of the Receiver to an Affiliate of the Purchaser provided that: (i) such Affiliate enters into a written agreement with the Receiver to be bound by the provisions of this Agreement in all respects and to the same extent as the Purchaser is bound, (ii) that the Purchaser will continue to be bound by all the obligations hereunder as if such assignment had not occurred and perform such obligations to the extent that such Affiliate fails to do so, and (iii) such assignment occur prior to the issuance of the Approval and Vesting Order.

#### 8.09 **Notices**

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and will be given by personal delivery or by electronic means of communication addressed to the recipient as follows:

To the Receiver:

BDO Canada Limited  
20 Wellington Street East, Suite 500  
Toronto, ON M5E 1C5

Fax No.: 416-865-0210  
Email: [gcerrato@bdo.com](mailto:gcerrato@bdo.com)

Attention: Gary Cerrato

With copies to (which will not constitute notice)

Robins Appleby LLP  
2600-120 Adelaide Street West  
Toronto, ON M5H 1T1

Fax No: 416-868-0306  
Email: [dmichaud@robapp.com](mailto:dmichaud@robapp.com)

Attention: Dominique Michaud

To the Purchaser:

12931109 CANADA INC.  
16 McAdam Avenue,  
Unit 904,  
Toronto, ON, M6A 0B9

Email: [Isaac@dreammakerrealty.ca](mailto:Isaac@dreammakerrealty.ca)

Attention: Isaac Olowolafe

With copies to (which will not constitute notice)

Miller Thomson LLP  
5800-40 King Street West  
Toronto, ON M5H 3S1

Fax No: 416 -595- 8695  
Email: [aapps@millerthomson.com](mailto:aapps@millerthomson.com), and  
[rfairbloom@millerthomson.com](mailto:rfairbloom@millerthomson.com)

Attention: Alfred Apps and Ron Fairbloom

or to such other street address, individual or electronic communication number or address as may be designated by notice given by either party to the other. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

Notwithstanding the foregoing, in the event that the Purchaser has not set out an e-mail address above for the delivery of the notices, any demands, notices or other communication to be given in connection with this Agreement may be delivered by e-mail to the solicitors retained by the Purchaser in connection with this Agreement, and such delivery shall be deemed to constitute valid delivery upon the Purchaser.

#### 8.10 **Remedies Cumulative**

The right and remedies of the parties under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that party may be entitled.

#### 8.11 **No Third Party Beneficiaries**

This Agreement is solely for the benefit of:

- (a) the Receiver, and its successors and permitted assigns, with respect to the obligations of the Purchaser under this Agreement, and
- (b) the Purchaser, and its successors and permitted assigns, with respect to the obligations of the Receiver under this Agreement,

and this Agreement will not be deemed to confer upon or give to any other person any Claim or other right or remedy.

#### 8.12 **Governing Law**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

#### 8.13 **Attornment**

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Receiver and the Purchaser each attorns to the jurisdiction of the courts of the Province of Ontario.

#### 8.14 **Appointment of Agent for Service**

The Purchaser nominates, constitutes and appoints Miller Thomson LLP of the City of Toronto its true and lawful agent to accept service of process and to receive all lawful notices in respect of any action arising under this Agreement (other than any notice that is to be given by one party to another pursuant to Section 8.09). Until due and lawful notice of the appointment of another and subsequent agent in the Province of Ontario has been given to and accepted by the Receiver, service of process of papers and such notices upon the Purchaser will be accepted by Miller Thomson LLP as sufficient service.

#### 8.15 **Severability**

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect.



**8.16 No Registration of Agreement**

The Purchaser agrees that it will not register or cause or permit to be registered this Agreement and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Lands and/or any part thereof. The Purchaser shall indemnify and save the Receiver harmless from and against any and all Claims whatsoever arising from or with respect to any such registration. This Section shall survive the expiration and/or termination of this Agreement for any reason.

**8.17 Counterparts**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

**8.18 Electronic Execution**

Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such party.

*The balance of this page has been intentionally left blank. Signatures follow on the next page.*

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first above written.

**12931109 CANADA INC.**

\_\_\_\_\_  
Name: Isaac Olowolafe

Title: A.S.O.

I have authority to bind the corporation

**BDO CANADA LIMITED, solely in its capacity as receiver and manager of 10268054 CANADA CORP., and not in any other capacity**

\_\_\_\_\_  


\_\_\_\_\_  
Name: Josie Parisi

Title: Senior Vice President

\_\_\_\_\_  
Name:

Title:

I/We have authority to bind the corporation

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

**12931109 CANADA INC.**



\_\_\_\_\_  
Name: Isaac Olowolafe

Title: A.S.O.

I have authority to bind the corporation

;  
;  
;  
;  
;

**BDO CANADA LIMITED, solely in its capacity as receiver and manager of 10268054 CANADA CORP., and not in any other capacity**

;  
;  
;  
;

\_\_\_\_\_  
Name

Title:

;  
;  
;  
;

\_\_\_\_\_  
Name:

Title:

I/We have authority to bind the corporation

**EXHIBIT A****Form of Approval and Vesting Order**

Court File No. CV-20-00652174-00CL

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

THE HONOURABLE JUSTICE                    )                   DAY, THE [ \_\_ ] DAY OF  
  )                   [ \_\_ ], 2021  
  )

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

and

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by BDO Canada Limited, in its capacity as Court appointed receiver and manager (the “**Receiver**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Asset Purchase Agreement**”) between the Receiver and ● (the “**Purchaser**”) dated ●, 2021, and vesting in the Purchaser 10268054 Canada Corp. (“**102 Corp**”) right, title, benefit and interest in and to the assets described

in the Asset Purchase Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Affidavit of ● sworn ●, 2021 and the ● Report of the Receiver dated ●, 2021 (the “● Report”), and on hearing the submissions of counsel for the Receiver, the Applicant, and the Purchaser, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● sworn ●, 2021 filed:

1. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Asset Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
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 102 Corp’s right, title, benefit and interest in and to the Purchased Assets described in the Asset Purchase Agreement 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, and all purchase and sale agreements entered into by 102 Corp for the sale of condominium dwelling units in a proposed condominium development on the Lands (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order dated January 14, 2021; (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 B** 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 C**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby terminated, expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the applicable land registry office or land titles office of a Transfer/Deed of Land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the Purchaser as the owner of the subject 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 B** 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 Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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 102 Corp’s past and current employees. 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 102 Corp.

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) in respect of 102 Corp and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made in respect of 102 Corp;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of 102 Corp and shall not be void or voidable by creditors of 102 Corp, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from Section 6(3) of the *Retail Sales Act* (Ontario).

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.

[SEALING]

10. **THIS COURT ORDERS** that the Confidential Appendix to the • Report shall be sealed, kept confidential and not form part of the public record, but shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further order of the Court.]

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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-20-00652174-00CL

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

THE HONOURABLE JUSTICE                    )                    DAY, THE [ \_\_ ] DAY OF  
  )                    [ \_\_ ], 2021  
  )

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

and

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Dietrich of the Ontario Superior Court of Justice (the “**Court**”) dated January 14, 2021, BDO Canada Limited was appointed as receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of 10268054 Canada Corp. (“**102 Corp**”).

B. Pursuant to an Order of the Court dated ●, 2021, the Court approved the agreement of purchase and sale made as of ●, 2021 (the “**Asset Purchase Agreement**”) between the Receiver and ● (the “**Purchaser**”) and provided for the vesting in the Purchaser of 102 Corp’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 the Asset Purchase 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.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; 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].

**BDO Canada Limited, in its capacity as  
Receiver, and not in its personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule B – Claims to be deleted and expunged from title to Real Property**

1. Instrument No. DR1762699 being a Charge in favour of Centurion Mortgage Capital Corporation
2. Instrument No. DR1762700 being a Notice of Assignment of Rents in favour of Centurion Mortgage Capital Corporation
3. Instrument No. DR1762723 being a Charge in favour of Westmount Guarantee Services Inc.
4. Instrument No. DR1809576 being a Charge in favour of Garrison Hill Developments Inc. and Kimila Treasure Campbell Greaux
5. Instrument No. DR1809577 being a Notice of Assignment of Rents in favour of Garrison Hill Developments Inc. and Kimila Treasure Campbell Greaux
6. Instrument No. DR1821027 being a Charge in favour of 2086752 Ontario Inc., Saccucci, Emilio and Saccucci, Concetta
7. Instrument No. DR1821028 being a Notice of Assignment of Rents in favour of 2086752 Ontario Inc., Saccucci, Emilio and Saccucci, Concetta
8. Instrument No. DR1821038 being a Postponement by Garrison Hill Developments Inc.
9. Instrument No. DR1821039 being a Postponement by Garrison Hill Developments Inc.
10. Instrument No. DR1874554 being a Charge in favour of Diversified Capital Inc.
11. Instrument No. DR1874555 being a Restrictive Covenant
12. Instrument No. DR1905814 being an Application to Change Name
13. Instrument No. DR1905821 being a Transfer Of Charge to Diversified Capital Inc.
14. Instrument No. DR1905822 being a Notice of Assignment of Rents
15. Instrument No. DR1937533 being a Charge in favour of 5023018 Ontario Inc.
16. Instrument No. DR1969025 being a Court Order

**Schedule B continued – purchase and sale agreements entered into by 102 Corp to be terminated**

Purchaser Name	Suite Number
[REDACTED]	8
[REDACTED]	9
[REDACTED]	16
[REDACTED]	17
[REDACTED]	TH3
[REDACTED]	TH4
[REDACTED]	TH15
[REDACTED]	TH28
[REDACTED]	TH31
[REDACTED]	TH34
[REDACTED]	TH42

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

1. Instrument No. LT258311
2. Instrument No. LT258742
3. Instrument No. LT268257
4. Instrument No. LT417675
5. Instrument No. 40R20665
6. Instrument No. 40R21765
7. Instrument No. DR431407
8. Instrument No. 40R26339

**EXHIBIT B**

**ASSIGNED CONTRACTS AND PERMITS**

## EXHIBIT C

### FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

#### ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT is made as of ●, 2021

BETWEEN

●, a corporation incorporated under the laws of ● (the  
“**Purchaser**”),

- and -

**BDO CANADA LIMITED, solely in its capacity as court  
appointed receiver and manager of 10268054 CANADA  
CORP. and not in its personal capacity**

**WHEREAS** the parties hereto have entered into an asset purchase agreement dated as of ●, 2021 (the “**Asset Purchase Agreement**”), pursuant to which BDO Canada Limited., solely in its capacity as court appointed receiver and manager of 10268054 Canada Corp (“**102 Corp**”) and not its personal capacity (the “**Receiver**”), has agreed to assign all of 102 Corp’s right, title, benefit and interest in and to the Assigned Contracts to the Purchaser, and the Purchaser has agreed to assume, perform and indemnify and hold harmless the Receiver and 102 Corp from the Assumed Liabilities, upon the terms and conditions set forth therein;

**AND WHEREAS** pursuant to Sections 6.02[(●)] and 6.03[(●)] of the Asset Purchase Agreement, the Purchaser and the Receiver are required to enter into and deliver this Agreement at the Time of Closing;

**NOW THEREFORE** in conjunction with and in consideration of the completion of the transactions to be effected at the Time of Closing as contemplated by the Asset Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Receiver and the Purchaser agree as follows:

#### ARTICLE 1 - INTERPRETATION

##### 1.01 Definitions

Unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Asset Purchase Agreement.

## 1.02 **Headings**

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles and Sections of, and Schedules to, this Agreement.

## 1.03 **Extended Meanings**

In this Agreement words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term “including” means “including without limiting the generality of the foregoing”.

## **ARTICLE 2 – ASSIGNMENT AND ASSUMPTION**

### 2.01 **Assignment by the Purchaser**

Upon and subject to the terms of the Asset Purchase Agreement, effective at the Time of Closing, the Receiver hereby assigns and transfers to the Purchaser all of 102 Corp’s right, title, benefit and interest under or in respect of the Assigned Contracts.

### 2.02 **Assumption by the Purchaser**

Upon and subject to the terms of the Asset Purchase Agreement, effective at the Time of Closing, the Purchaser hereby assumes and agrees to fulfill, perform and discharge the Assumed Liabilities.

### 2.03 **Release by the Purchaser**

The Purchaser hereby: (i) unconditionally and irrevocably fully releases and discharges the Receiver and 102 Corp from any Claim which the Purchaser may now or hereafter have against the Receiver or 102 Corp by reason of any matter or thing arising out of, or resulting from, any of the Assumed Liabilities, and (ii) agrees that the Purchaser will not make or take any Claim with respect to any matter released and discharged in this Section 2.03 which may result in any Claim against the Receiver or 102 Corp for contribution or indemnity or other relief.

### 2.04 **Indemnity by the Purchaser**

The Purchaser hereby indemnifies and saves harmless the Receiver on its own behalf and as trustee for its Affiliates and its and their current and former directors and officers, employees, agents, advisors, and representatives (collectively, the “**Indemnitees**”) from and against all Claims asserted against any of the Indemnitees in any way directly or indirectly arising from, relating to or in connection with any of the Assumed Liabilities (other than Claims arising from fraud, criminal activity or wilful misconduct on the part of the Indemnitees in connection with the

transactions contemplated by this Agreement). The Purchaser appoints the Receiver as the trustee for the Indemnitees of the covenants of indemnification of the Purchaser with respect to such Indemnitees specified in this Section 2.04 and the Receiver accepts such appointment.

### **ARTICLE 3 - GENERAL**

#### **3.01 Further Assurances**

The Receiver and the Purchaser will from time to time execute and deliver all such further documents and instruments and do all acts and things as any of the other parties may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

#### **3.02 Time of the Essence**

Time is of the essence of this Agreement.

#### **3.03 Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

#### **3.04 Amendments and Waivers**

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by each of the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.

#### **3.05 Assignment**

This Agreement may not be assigned by the Receiver or by the Purchaser without the consent of: (i) in the case of an assignment by the Receiver, the Purchaser; and (ii) in the case of an assignment by the Purchaser, the Receiver.

#### **3.06 Notices**

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and in accordance with Section [8.09] of the Asset Purchase Agreement.

#### **3.07 Governing Law**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.



### 3.08 **Attornment**

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Receiver and the Purchaser each attorn to the jurisdiction of the courts of the Province of Ontario.

### 3.09 **Appointment of Agent for Service**

The Purchaser nominates, constitutes and appoints ●, Barristers and Solicitors, of the City of ● its true and lawful agent to accept service of process and to receive all lawful notices in respect of any action arising under this Agreement (other than any notice that is to be given by one party to another pursuant to Section 3.06). Until due and lawful notice of the appointment of another and subsequent agent in the Province of Ontario has been given to and accepted by the Receiver, service of process or of papers and such notices upon ● will be accepted by the Purchaser as sufficient service.

### 3.10 **Counterparts**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

### 3.11 **Electronic Execution**

Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such party.

### 3.12 **Severability**

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any of the parties.

*[The balance of this page has been intentionally left blank]*

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first above written.

**[PURCHASER]**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**BDO CANADA LIMITED solely in its capacity  
as receiver and manager of 10268054  
CANADA CORP., and not in any other  
capacity**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**EXHIBIT D****PERMITTED ENCUMBRANCES**

1. Instrument No. LT258311
2. Instrument No. LT258742
3. Instrument No. LT268257
4. Instrument No. LT417675
5. Instrument No. 40R20665
6. Instrument No. 40R21765
7. Instrument No. DR431407
8. Instrument No. 40R26339

**EXHIBIT E****OTHER EXCLUDED ASSETS**

1. All purchase agreements entered into between 102 Corp. and purchasers of dwelling units in the proposed condominium on the Lands, including but not limited to purchase agreements entered into between 102 Corp. and the following purchasers for the following suites/units:

Purchaser Name	Suite Number
[REDACTED]	8
[REDACTED]	9
[REDACTED]	16
[REDACTED]	17
[REDACTED]	TH3
[REDACTED]	TH4
[REDACTED]	TH15
[REDACTED]	TH28
[REDACTED]	TH31
[REDACTED]	TH34
[REDACTED]	TH42

**EXHIBIT F****ALLOCATION OF PURCHASE PRICE**

**[The Purchase Price allocation will be determined by the Purchaser and the Receiver prior to the Closing Date]**

## EXHIBIT G

### HST UNDERTAKING AND INDEMNITY

**TO:** BDO CANADA LIMITED., solely in its capacity as Court appointed receiver and manager of 10268054 CANADA CORP., and not in its personal capacity

**AND TO:** Robins Appleby LLP, its solicitors

**RE:** **Agreement of Purchase and Sale dated \_\_\_\_\_ (the "Agreement") between BDO CANADA LIMITED., solely in its capacity as Court appointed receiver and manager of 10268054 CANADA CORP., and not in its personal capacity (the "Receiver") and \_\_\_\_\_ (the "Purchaser") in respect of the property municipally known as 184-188 Salem Road (formerly 135 Mandrake Street), Ajax, Ontario (collectively, the "Purchased Assets").**

IN CONSIDERATION of and notwithstanding closing of the above-noted purchase, the undersigned hereby covenants and agrees that with respect to Harmonized Sales Tax ("HST") payable pursuant to the *Excise Tax Act* (the "**Act**") by reason of the sale of the Property and all buildings, structures and improvements thereon, the Purchaser represents, warrants and agrees that:

- (i) It is purchasing the Purchased Assets as principal for its own account and same is not being purchased by the Purchaser as an agent, trustee or otherwise on behalf of or for another person;
- (ii) It is registered under Subdivision (d) of Division V of Part IX of the *Act* for the collection and remittance of HST; its registration number is \_\_\_\_\_ RT0001; and such registration is in good standing and has not been withdrawn or revoked and shall file returns and remit any HST owing on the sale to the Receiver General to the extent required by the *Act*;
- (iii) It shall be liable to and shall self-assess and remit to the appropriate governmental authority all HST which is payable under the *Act* in connection with the transfer of the Purchased Assets made pursuant to this Agreement of Purchase and Sale, all in accordance with the *Act*;
- (iv) It acknowledges that the Receiver is relying upon the accuracy of the above representations and warranties in not collecting HST and allowing the Purchaser to self-assess and remit HST to the Receiver General in accordance with the *Act*, and that such representation and warranties shall not merge on the closing of the transaction;
- (v) It shall indemnify and save harmless the Receiver from and against any and all HST, penalties, costs and/or interest which may become payable by or assessed against the Receiver as a result of any inaccuracy, misstatement or misrepresentation made in connection with any matter raised in this paragraph or contained in any declaration referred to herein; and

- (vi) If HST is payable in respect of this transaction in accordance with the Act, the undersigned, having paid or agreed to pay the consideration for the sale, is liable for payment of HST thereon.

The above warranties, certificates and agreements will survive the closing of this transaction and continue in full force and effect thereafter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Per: \_\_\_\_\_

Name:

Title:

*I have the authority to bind the Corporation*

**EXHIBIT H****CENTURION MORTGAGE TERMS**

1. The term of the Centurion Mortgage shall be 24 months.
2. Interest on the principal amount due and owing shall accrue at 8% per annum, calculated monthly not in advance.
3. The Centurion Mortgage shall be on such other terms and conditions as agreed by Centurion, including all of the following:
  - (i) The Chargor shall have the privilege of prepaying the whole or any part of the principal sum hereby secured at any time or times without notice or bonus.
  - (ii) The Chargor shall be entitled to demolish and remove any existing buildings and structures situate on the Property, and shall also be entitled to excavate, grade and/or commence and complete construction and servicing operations upon the Property, all without same being deemed an act of waste hereunder, and without triggering any payments thereunder and/or without such acts triggering any acceleration.
  - (iii) The Chargee shall execute and deliver, without any fee or charge whatsoever (and without any principal or interest repayment hereunder) (save for Chargee's solicitors reasonable legal fees), all consents, acknowledgments and postponements that may be required by the Chargor to re-zone and/or subdivide the Property to permit the development thereof, or to register the Property under the Land Titles System pursuant to the provisions of *The Planning Act* R.S.O. 1990, as amended, and/or any other legislation as well as any consents, acknowledgments and postponements required by the Chargor in connection with the entering into of any condominium agreement, site plan agreement, engineering agreement, development agreement or similar agreement with any governmental authorities and/or any public or private utilities, and the Chargee shall also consent to (and postpone this Charge in favour of) any easements now or hereafter granted to any such governmental authorities and/or to any public or private utility authorities in respect of the provision of services to the Property, including but not limited to easements in connection with the installation, maintenance and/or repair of storm and sanitary sewers, gas, telephone, television, hydro-electric and water services and/or similar services (together with any easements for access and egress purposes in favour of any property adjacent to the Property), all without any payment whatsoever, provided however that the Chargee shall not be responsible for any financial or other obligations incurred in connection therewith.
  - (iv) The Chargee shall execute and deliver, without any fee or charge whatsoever (save for Chargee's reasonable legal fees) (and without any principal or interest repayment hereunder), such partial discharges of this Charge as may be reasonably required in connection with the giving of any road widenings, one foot reserves,



park dedications, or other land contribution(s) to any governmental authorities, required as part of the development approval process in respect of the Property.

- (v) The Chargee will subordinate and postpone the Charge to any agreements with utilities and/or governmental departments or other authorities pertaining to the installation and supply of utilities to the Property.
- (vi) Centurion's Standard Charge Terms shall be utilized for this Charge.
- (vii) Chargor covenants and agrees to execute and deliver in favour of Chargee, on closing, a registrable general assignment of rents and leases in respect of the Property, if required by Centurion.
- (viii) With regard to all purchaser deposits received related to the proposed Condominium to be developed on the Property and all interest accrued thereon (collectively the "**Purchaser Deposits**"), the Chargee shall postpone and subordinate any PPSA registrations registered in favour of the Chargee and any claim it may have in and to the Purchaser Deposits, in favour of any security provided by the Chargor to the Tarion Warranty Corporation and/or any issuer of a Tarion deposit bond and/or excess condominium deposit insurance. The Chargee agrees to execute and deliver any PPSA acknowledgements and forms of postponements requested by the Chargor's construction lender or issuer of a Tarion deposit bond.
- (ix) Notwithstanding anything to the contrary herein, the Chargee agrees:
  - (1) to enter into a subordination and standstill agreement with the Chargor's construction lender (which may include an agent representing a syndicate of construction lenders) in a form acceptable to the Chargee, in its sole unfettered discretion; and
  - (2) to postpone and subordinate this Charge, on terms and in a form acceptable to the Chargee, in its sole discretion, to: (i) any construction financing obtained by the Chargor to facilitate the redevelopment and construction of the Property; and (ii) to any Charge registered in favour of the issuer of a Tarion deposit bond and/or any excess condominium deposit insurance.

# TAB E

MILLER THOMSON ITF Dream  
 Account Number: CIBC 86426969402  
 UPDATED TO: October 31, 2020  
 Matter Number : 0223173.0004

TARION DTA INSTRUMENT

NO HOLDBACK REQUIRED

				DEPOSITS				RELEASES											
Suite	Name	Unit / Level	Purchase Date	Purchase Price	Cheque Date	Cheque Amt.	Deposit Date	Deposit Amt.	Upgrades	Total Deposits to Date	Warranty	Excess	Released Date	(W) Released	(W) Remaining	(E) Released	(E) Remaining	Total Available	
8					19-Dec-18	10,000.00	19-Jun-19	10,000.00											
8																			
8																			
8																			
8																			
8																			
										10,000.00	10,000.00	0.00			10,000.00		0.00	10,000.00	
9					19-Dec-18	10,000.00	19-Jun-19	10,000.00											
9					19-Dec-18	10,000.00	19-Jun-19	10,000.00											
9																			
9																			
9																			
9																			
										20,000.00	20,000.00	0.00			20,000.00		0.00	20,000.00	
16					22-Mar-19	10,000.00	19-Jun-19	10,000.00											
16																			
16																			
16																			
16																			
16																			
										10,000.00	10,000.00	0.00			10,000.00		0.00	10,000.00	
17					22-Mar-19	10,000.00	19-Jun-19	10,000.00											
17																			
17																			
17																			
17																			
17																			
										10,000.00	10,000.00	0.00			10,000.00		0.00	10,000.00	
TH3					22-Mar-19	10,000.00	19-Jun-19	10,000.00											
TH3																			
TH3																			
TH3																			
TH3																			
TH3																			
										10,000.00	10,000.00	0.00			10,000.00		0.00	10,000.00	
TH4					22-Mar-19	10,000.00	19-Jun-19	10,000.00											
TH4																			
TH4																			
TH4																			
TH4																			
TH4																			
										10,000.00	10,000.00	0.00			10,000.00		0.00	10,000.00	

MILLER THOMSON ITF Dream Account Number: CIBC 86426969402 UPDATED TO: October 31, 2020 Matter Number : 0223173.0004					TARION DTA INSTRUMENT										127				
					NO HOLDBACK REQUIRED					DEPOSITS					RELEASES				
Suite	Name	Unit / Level	Purchase Date	Purchase Price	Cheque Date	Cheque Amt.	Deposit Date	Deposit Amt.	Upgrades	Total Deposits to Date	Warranty	Excess	Released Date	(W) Released	(W) Remaining	(E) Released	(E) Remaining	Total Available	
TH15		U15L1	03-Oct-19	\$600,000.00	wire		3-Jan-20	5,000.00											
TH15		U15L1	03-Oct-19	\$600,000.00															
TH15		U15L1	03-Oct-19	\$600,000.00															
TH15		U15L1	03-Oct-19	\$600,000.00															
TH15		U15L1	03-Oct-19	\$600,000.00															
TH15		U15L1	03-Oct-19	\$600,000.00															
										5,000.00	5,000.00	0.00			5,000.00		0.00	5,000.00	
TH28		U28L1	09-Oct-19	\$600,000.00	wire		3-Jan-20	5,000.00											
TH28		U28L1	09-Oct-19	\$600,000.00															
TH28		U28L1	09-Oct-19	\$600,000.00															
TH28		U28L1	09-Oct-19	\$600,000.00															
TH28		U28L1	09-Oct-19	\$600,000.00															
TH28		U28L1	09-Oct-19	\$600,000.00															
										5,000.00	5,000.00	0.00			5,000.00		0.00	5,000.00	
TH31		U31L1	29-Sep-19	\$600,000.00	wire		3-Jan-20	5,000.00											
TH31		U31L1	29-Sep-19	\$600,000.00															
TH31		U31L1	29-Sep-19	\$600,000.00															
TH31		U31L1	29-Sep-19	\$600,000.00															
TH31		U31L1	29-Sep-19	\$600,000.00															
TH31		U31L1	29-Sep-19	\$600,000.00															
										5,000.00	5,000.00	0.00			5,000.00		0.00	5,000.00	
TH34		U34L1	30-Jul-19	\$600,000.00	wire		3-Jan-20	5,000.00											
TH34		U34L1	30-Jul-19	\$600,000.00															
TH34		U34L1	30-Jul-19	\$600,000.00															
TH34		U34L1	30-Jul-19	\$600,000.00															
TH34		U34L1	30-Jul-19	\$600,000.00															
TH34		U34L1	30-Jul-19	\$600,000.00															
										5,000.00	5,000.00	0.00			5,000.00		0.00	5,000.00	
TH42		U42L1	27-Sep-19	\$600,000.00	wire		10-Jan-20	5,000.00											
TH42		U42L1	27-Sep-19	\$600,000.00															
TH42		U42L1	27-Sep-19	\$600,000.00															
TH42		U42L1	27-Sep-19	\$600,000.00															
TH42		U42L1	27-Sep-19	\$600,000.00															
TH42		U42L1	27-Sep-19	\$600,000.00															
										5,000.00	5,000.00	0.00			5,000.00		0.00	5,000.00	
<b>TOTALS</b>								<b>95,000.00</b>	<b>0.00</b>	<b>95,000.00</b>	<b>95,000.00</b>	<b>0.00</b>		<b>0.00</b>	<b>95,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>95,000.00</b>	

**TAB F**

**DEPOSIT TRUST AGREEMENT**  
(issued in triplicate)

**THIS DEPOSIT TRUST AGREEMENT** is effective as of the 27th day of July, 2018.

**BETWEEN:**

**10268054 CANADA CORP.**  
(hereinafter called the "**Principal**")

OF THE FIRST PART

**AND:**

**WESTMOUNT GUARANTEE SERVICES INC. as Administrative Agent for the Surety**  
(hereinafter called "**Westmount**")

OF THE SECOND PART

**AND:**

**MILLER THOMSON LLP, BARRISTERS & SOLICITORS**  
(hereinafter called the "**Escrow Agent**")

OF THE THIRD PART

**WHEREAS:**

- A) The Principal intends to construct and develop a **42** unit condominium complex located at 184-188 Salem Road, Ajax, which previously had a municipal address of **135 Mandrake Street** in the City of **Ajax**, Ontario and marketed or known as "**Dream Residences @Salem Road**" or "**Dream Residences at Salem Road**" (hereinafter referred to as the "**Project**");
- B) Purchasers of Units have paid (or will pay) Deposits to the Principal's solicitor or a prescribed trustee pursuant to the provisions of the Purchase Agreements, in accordance with Section 81(1) of the Condominium Act 1998, S.O. 1998, as amended;
- C) Section 81(7) of the Condominium Act 1998, S.O. 1998, as amended, requires the declarant's solicitor or a prescribed trustee to hold the Deposits in trust, until delivery of prescribed security to the Purchasers for repayment of their respective Deposits;
- D) Deposit receipts executed by the Warranty Corporation that provide for compensation to Purchasers in accordance with Section 22 of Ontario Regulation 48/01, constitute prescribed security pursuant to subsection 20(2)[2] of Ontario Regulation 48/01 to the Condominium Act 1998, S.O. 1998, as amended;
- E) Under the combined Vendor/Builder Agreement or either of the Vendor Agreement or the Builder Agreement heretofore entered into with the Warranty Corporation, the Principal has agreed to perform diligently (or cause to be performed) certain obligations imposed on the Principal under the Act and the Plan, including all obligations imposed under any agreement made by the Principal with the Warranty Corporation;
- F) The Principal has and/or will request Westmount to cause to be issued, by the Surety, Bonds and/or Policies including but not limited to a Tarion Warranty Corporation Bond and/or Excess Condominium Deposit Insurance Policy;
- G) For the purposes of evidencing and securing the obligations of the Principal to the Surety arising under (or in connection with) the Bonds and/or Policies, the Principal and one or more indemnitors have entered into (or will hereafter enter into) an indemnity agreement in favour of the Surety (hereinafter referred to as the "**Indemnity Agreement**") pursuant to which they undertake to indemnify and save harmless the Surety and any agent acting on behalf of the Surety in full for any and all losses, charges, damages, expenses, costs, claims, demands and liabilities that it may suffer arising from the issue of one or several Bonds and/or Policies, or arising from a decision not to issue any Bond and/or Policies, or arising from any claims being made, or arising by reason of the Surety undertaking its obligations under any Bond and/or Policies, or arising from any default by the parties under the Indemnity Agreement or in enforcing any of the conditions or covenants thereof;
- H) The Principal covenants and agrees that all monies heretofore or hereafter payable or owing on account of an agreement of purchase and sale of a proposed unit in the Project shall be made payable to the Escrow Agent, and shall correspondingly be delivered by or on behalf of the Principal to the Escrow Agent forthwith following the expiry of the applicable rescission period contemplated under section 73 of the Condominium Act 1998, S.O. 1998, as amended, and all such monies (together with all interest earned or accrued thereon) shall be held in trust by the Escrow Agent in a separate trust account in Ontario at a bank listed in Schedule I or II to the Bank Act (Canada) R.S.C. 1990, as amended, as may be designated by the Principal with the consent of Westmount (hereinafter referred to as the "**Designated Trust Account**"), in conformity with the provisions of section 80(4) of the Condominium Act 1998, S.O. 1998, as amended, and all such monies (together with all interest earned or accrued thereon) shall continue to be held by the Escrow Agent in trust for Westmount, the Principal and the individual Purchasers (as the case may be) in accordance with the terms and provisions of this Agreement; and
- I) The Principal covenants and agrees that the Excess Closing Proceeds shall be made payable to the Escrow Agent, if required by Westmount, and all such monies shall be held in the Designated Trust Account in accordance with the terms and conditions of this Agreement.



**AND WHEREAS** the Escrow Agent hereby confirms that it is qualified to act as an escrow agent for Deposits with respect to the Project pursuant to section 20(1) of Ontario Regulation 48/01, for the purpose of complying with subsections 81(1) and (6) of the Condominium Act 1998, S.O. 1998, as amended, and the Escrow Agent has agreed to hold all monies received on account of an agreement of purchase and sale of a proposed unit in the Project entered into between the Principal and each of the respective unit purchasers (together with all interest earned or accrued thereon) as well as any Excess Closing Proceeds that are available in the Designated Trust Account in trust, as a general and continuing collateral security to the Surety for the payment of the present and future indebtedness and liabilities of the Principal to the Surety and/or Westmount arising out of or in connection with the Indemnity Agreement, Bonds and/or the Policies.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the sum of Ten (\$10.00) Dollars of lawful money of Canada now paid by each of the parties hereto to the other, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged), the Principal and Escrow Agent each hereby confirms the truth and accuracy of the foregoing recitals where applicable, and the parties hereto hereby covenant and agree, to and with each other, as follows:

## **SECTION I - INTERPRETATION**

### **1.1 Definitions**

In addition to those words, terms or phrases specifically defined elsewhere in this Agreement, the words, terms or phrases set out below shall have the meanings respectively ascribed to them as follows, whenever same are used or referred to in the recitals or elsewhere in this Agreement;

- a) "**Act**" means The Ontario New Home Warranties Plan Act R.S.O. 1990, or any amendment thereto or substitution therefore;
- b) "**Agreement**" means this agreement and any other agreement(s) which supplement(s), amend(s) or confirm(s) this agreement;
- c) "**Bonds and/or Policies**" means Tarion Warranty Corporation bonds, Excess Condominium Deposit Insurance Policies and other bonds or policies issued from time to time at the request of the Principal and includes any alteration, renewal, continuance, replacement or extension of such bonds or policies of insurance.
- d) "**Builder Agreement**" means any outstanding agreement entered into between the Warranty Corporation and the Principal (in the Principal's capacity as a builder, as such term is defined in the Act), pertaining to the obligations of the Principal under the Act, the regulations promulgated there under, and any bulletins issued by the Warranty Corporation from time to time which may be applicable to the Principal;
- e) "**Certificate of Completion and Possession**" has the meaning ascribed to it in Part I(1) of Regulation 892 to the Act;
- f) "**Deposit**" or "**Deposits**" shall respectively have the meaning ascribed to the term "**Deposit**" in Part I (1) of Regulation 892 to the Act;
- g) "**Deposit Receipt**" means a deposit receipt executed by the Warranty Corporation in accordance with Section 22 of Ontario Regulation 48/01 to the Condominium Act 1998, S.O. 1998, or any amendment thereto or substitution therefore;
- h) "**Excess Closing Proceeds**" means all monies which are received from Purchasers on the final closing of the unit sales and any accrued interest earned thereon and which remain after the mortgagees with security interest in priority to the Surety's are paid in full, and which monies shall be in an amount in aggregate as determined by Westmount, in its sole discretion, required to cover all present and future indebtedness and liabilities of the Principal to the Surety arising out of (or in connection with) the Indemnity Agreement, the Bonds and/or the Policies.
- i) "**Excess Condominium Deposit Insurance Policy** means a Bond and/or Policy referred to or contemplated in Section 20(2)[1] and Section 21 of Ontario Regulation 48/01 to the Condominium Act 1998, S.O. 1998, or any amendment thereto or substitution therefore, which insures all deposit monies paid under an agreement of purchase and sale with respect to the acquisition of one or more units in the Project in excess of \$20,000.00 (or in excess of any other amount which may hereafter be covered by the Warranty Corporation under a Deposit Receipt);
- j) "**hereof**", "**hereto**", "**hereunder**" and similar terms mean and refer to this Agreement as a whole, and not to any particular section or subsection;
- k) "**Plan**" means the Ontario New Home Warranties Plan;
- l) "**Purchase Agreement**" has the meaning ascribed to it in Part I(1) of Regulation 892 to the Act;

- m) "**Purchaser**" has the meaning ascribed to it in Part I(1) of Regulation 892 to the Act;
- n) "**Tarion Bond**" means a Bond and/or Policy in the wording prescribed by Tarion Warranty Corporation and issued on behalf of the Principal, to the Warranty Corporation as Obligee as security.
- o) "**Surety**" means the surety or insurance company or companies named as surety and/or insurer on the Bonds and/or Policies.
- p) "**Unit**" has the meaning ascribed to it in Section 1(1) of the Condominium Act 1998, S.O. 1998, or any amendment thereto or substitution therefore;
- q) "**Vendor Agreement**" means any outstanding agreement entered into between the Warranty Corporation and the Principal (in the Principal's capacity as a **vendor**, as such term is defined in the Act), pertaining to the obligations of the Principal under the Act, the regulations promulgated there under, and any bulletins issued by the Warranty Corporation from time to time which may be applicable to the Principal;
- r) "**Vendor/Builder Agreement**" means any outstanding agreement entered into between the Warranty Corporation and the Principal (in the Principal's capacity as a **vendor** and/or a **builder**, as such terms are respectively defined in the Act), pertaining to the obligations of the Principal under the Act, the regulations promulgated there under, and any bulletins issued by the Warranty Corporation from time to time which may be applicable to the Principal; and
- s) "**Warranty Corporation**" means Tarion Warranty Corporation.

#### 1.2 **Plural Etc.**

In this Agreement, the singular includes the plural, and vice versa.

#### 1.3 **Headings**

Headings of sections or subsections are provided for convenience of reference only, and do not define, limit or enlarge the construction or interpretation hereof.

#### 1.4 **Currency**

All references to monetary amounts are references to Canadian Dollars.

#### 1.5 **Schedules**

Schedule "A" annexed hereto forms an integral part of this Agreement.

#### 1.6 **Recitals**

The Principal hereby covenants and agrees that the Recitals are true and correct and shall be incorporated into this Agreement.

### **SECTION 2 - REPRESENTATION AND WARRANTIES**

#### 2.1 **Representations of the Principal**

The Principal hereby represents and warrants to Westmount that, as of the date hereof;

- a) it is a registered builder and/or vendor under the Act, or has applied to become a registered builder and/or vendor under the Act;
- b) Schedule "A" contains a full and complete record of all the names of all of the Purchasers of Units in the Project, the Units purchased, the dates of all Purchase Agreements, the amount of all Deposits received by the Principal from such Purchasers with respect to such Units in accordance with their respective Purchase Agreements, and the purchase price with respect to each of such Units;
- c) the Principal has received value from Westmount or the Surety;
- d) no other creditor of the Principal has any security interest or other claim in or to the Deposits or Excess Closing Proceeds (except in the case of Excess Closing Proceeds, a creditor approved by Westmount ranking prior to *or pari passu* with the security interests granted to Westmount pursuant to this Agreement, and the Principal will obtain and deliver to Westmount from time to time, upon request of Westmount, acknowledgments or postponements, in form and substance satisfactory to Westmount, from creditors of the Principal evidencing that any security interest or other claims of such creditors do not attach or pertain to the Deposits or Excess Closing Proceeds, or rank behind the security interests of Westmount in and to the Deposits or Excess Closing Proceeds; and
- e) the Principal has (or will have) prior to delivery of any amounts in respect thereof to the Escrow Agent, rights in and to the Deposits and Excess Closing Proceeds.



## 2.2 Survival of Warranties

The representations and warranties contained in Section 2.1 hereof shall survive and continue in full force and effect for the benefit of Westmount and the Surety, for so long as Westmount or the Surety have any outstanding obligations or liabilities (whether vested, contingent or otherwise) arising under the Indemnity Agreement, the Bonds and/or the Policies.

## SECTION 3 - THE DESIGNATED TRUST ACCOUNT

### 3.1 Covenants

The Principal hereby covenants and agrees with Westmount that:

- a) as soon as the Principal has received any funds representing a Deposit in respect of any Purchase Agreement, and the corresponding statutory 10-day rescission period with respect thereto (and arising pursuant to Section 73 of the Condominium Act 1998, S.O. 1998, as amended) has expired without the Principal or its solicitor having received any notice of rescission in connection therewith, the Principal shall forthwith deliver such funds to the Escrow Agent for immediate deposit into the Designated Trust Account and to thereafter be held in accordance with the terms of this Agreement;

It is hereby understood and agreed that any default in respect of the foregoing obligation shall constitute a breach or an event of default under the security documentation and instruments now or hereafter executed by the Principal to and in favour of Westmount (which security documentation and instruments are hereinafter collectively referred to as the "**Collateral Security Instruments**").

- b) upon Westmount's request, and in any event every month commencing from and after the effective date of this Agreement, and continuing throughout the duration of this Agreement, the Principal shall provide to Westmount an up-to-date report confirming the amount of all Deposits received by the Principal since the previous monthly report, including all Deposits remitted to the Escrow Agent for deposit in the Designated Trust Account, and which up-dated monthly report shall contain all of the details specified in subsection 2.1(b) hereof;
- c) the Principal shall provide to Westmount copies of all Deposit Receipts issued with respect to the Project under the Act, forthwith after receipt by the Principal thereof; and
- d) The Principal shall direct all Excess Closing Proceeds to be payable to the Escrow Agent for deposit into the Designated Trust Account, if required by Westmount, and to thereafter be held in accordance with the terms of this Agreement. It is hereby understood and agreed that any default in respect of the foregoing obligations shall constitute a breach or an event of default under the Collateral Security Documents.

The Escrow Agent hereby covenants and agrees with Westmount that as soon as the Escrow Agent has received any funds representing a Deposit delivered to it by or on behalf of the Principal in accordance with Section 3.1(a) hereof, the Escrow Agent shall forthwith deposit and retain such funds in the Designated Trust Account at CIBC, Highway 7 and West Beaver Creek Banking Centre, 300 West Beaver Creek Rd., Richmond Hill ON L4B 3B1 (having account number 69-69402), and within 10 days of depositing any such monies in the Designated Trust Account the Escrow Agent shall, on behalf of the Principal and in accordance with the provisions of subsection 81(6) of the Condominium Act 1998, S.O. 1998, as amended, provide to the person or persons who paid such monies written evidence of compliance with subsections 81(1) and (4) of the Condominium Act 1998, S.O. 1998, as amended, by completing and delivering to each of them within said time frame a Form 4, as prescribed by Section 39 of Ontario Regulation 49/01 to the Condominium Act 1998, S.O. 1998, as amended.

Westmount hereby consents to the Escrow Agent placing the funds referred to in Section 3.1(e) hereof in a term deposit or guaranteed investment certificate, if so instructed by the Principal, provided that such placement of funds does not contravene the overriding requirement of Section 81(4) of the Condominium Act 1998, S.O. 1998; as amended in terms of such monies still constituting trust monies held in a separate trust account at a bank listed in Schedule I or II of The Bank Act (Canada). The Principal shall be solely responsible for any shortfall in interest required to be repaid to any of the Purchasers, in the event that the Project is cancelled and the Deposits, together with all interest accrued thereon as prescribed by the Condominium Act 1998, S.O. 1998, as amended, are to be refunded to any of the Purchasers.

### 3.2 Trust

The Escrow Agent hereby agrees with Westmount to retain and hold all amounts now or at any time hereafter deposited in the Designated Trust Account (currently amounting to \$0) on the express understanding that the Designated Trust Account shall be opened and maintained in the name of the Escrow Agent, **and** whose signing authority for authorizing withdrawals therefrom resides exclusively with the Escrow Agent (and specifically two or more solicitors who are employees, associates or partners of the law firm comprising the Escrow Agent). It is also agreed that the Escrow Agent shall only be required to retain and hold the Deposits received by it, together with all interest earned or accrued thereon, less those funds released in accordance with the provisions of Section 4 hereof.



### 3.3 Security Interest

The Principal hereby grants to Westmount a security interest in its ownership of (or beneficial interest in) all Deposits received, together with all interest earned or accrued thereon, plus any Excess Closing Proceeds less any funds released in accordance with the provisions of Section 4 hereof, which security interest shall be and constitute a general and continuing security for the payment and/or performance of all present and future indebtedness, liabilities and/or obligations of the Principal to Westmount incurred or arising under or pursuant to the Indemnity Agreement, Bonds and/or the Policies and/or this Agreement.

The Principal hereby covenants and agrees that it shall not create or grant any security interest in the Deposits or Excess Closing Proceeds to or in favour of any third party or parties which would purport to claim priority over (or rank *pari passu* with) Westmount's security interests in and to the Deposits or Excess Closing Proceeds, and hereby expressly acknowledges and agrees that a breach of this covenant shall constitute a breach or an event of default under the Collateral Security Instruments. In respect of Excess Closing Proceeds, this shall not apply to any third party approved by Westmount.

The Principal and the Escrow Agent agree with Westmount that if:

- a) the Principal is in breach of any of its obligations contained in the Indemnity Agreement, the Bonds and/or policies, any of the Collateral Security Instruments, and/or this Agreement; or
- b) the interest of the Principal in the Project shall at any time be seized or taken in execution by any creditor of the Principal, and such continues for a period of 10 days; or
- c) if an act of bankruptcy [as defined in the Bankruptcy and Insolvency Act (Canada), as amended or replaced from time to time] shall occur in respect of the Principal, or if the Principal shall become bankrupt or insolvent (in each case as defined in the Bankruptcy and Insolvency Act (Canada) as amended or replaced from time to time); or
- d) if the Principal shall make a general assignment for the benefit of its creditors, or shall liquidate or pass a resolution to liquidate or wind-up its business; or
- e) if a receiver or a receiver/manager in respect of the Principal (or with respect to any substantial part of the Principal's property and assets) is appointed, either with or without the consent or acquiescence of the Principal, and any such appointment shall remain unvacated and unstayed for a period of 30 days thereafter; or
- f) if any power of sale, foreclosure or judicial sale proceedings are commenced or initiated by any outstanding mortgagee or other encumbrancer (or by any receiver or manager on behalf of any outstanding mortgagee or other encumbrancer) in respect of the lands (or any portion thereof) upon which the Project is being developed (irrespective of whether such mortgagee or encumbrancer has a registered charge or other encumbrance in priority to, or subordinate to, the charge or other security interests of Westmount thereto), including without limitation, the issuance of any notice of sale under any such outstanding mortgage or other encumbrance affecting such lands or any portion thereof; or
- g) if any construction lien (or any other claim for lien) is now or hereafter registered against the lands (or any portion thereof) upon which the Project is being developed, and such lien (together with any corresponding certificate of action, if applicable) has not been formally discharged or vacated from the title to such lands by a court order or a discharge/release from the lien claimant; or
- h) if any instrument evidencing any claim, interest, restriction, covenant, deficiency notice, stop work order, notice of violation, judicial decree or court order, or any other encumbrance is now or hereafter registered against the lands (or any portion thereof) upon which the Project is being developed, and such instrument prohibits or restricts (or may likely prohibit or restrict) the development and/or completion of the Project on said lands, or the sale and final closing of the unit sale transactions in respect of the Project, in whole or in part;

then, in any of the foregoing circumstances or events, the security interest granted by the Principal to Westmount pursuant to this Agreement shall, at the sole option or discretion of Westmount (which shall not be challenged or questioned under any circumstances whatsoever), become immediately enforceable in accordance with the terms and provisions of this Agreement and the provisions of The Personal Property Security Act R.S.O. 1990, as amended.

In the event the security interest granted by the Principal to Westmount pursuant to this Agreement has become enforceable, all Deposits received, together with all interest earned or accrued thereon and Excess Closing Proceeds less any funds previously released in accordance with the provisions of Section 4 hereof (or any part thereof from time to time), shall be released in accordance with Section 4, as and when Westmount thinks fit, and without notice to the Principal, without prejudice to Westmount's rights, powers and/or claims against the Principal for any deficiency;

- a) the Principal shall not be entitled to withdraw any funds from the Designated Trust Account, by cheque or otherwise



- b) the Escrow Agent shall not pay or withdraw any funds from the Designated Trust Account without the prior written consent of Westmount;
- c) the security created by this Agreement is in addition to, and without prejudice to, any other security now or hereafter held by Westmount; and
- d) the Escrow Agent shall hold the funds in the Designated Trust Account on behalf of Westmount, for the purpose of perfecting the security interest granted to Westmount in respect of the Deposits, and Excess Closing Proceeds, and not as agent of or for the Principal.

#### 3.4 **Signing Authority**

The Escrow Agent shall have the sole signing authority for withdrawals or cheques drawn on the Designated Trust Account.

#### 3.5 **Condominium Act**

No transfer or withdrawal of funds representing any Deposit(s) shall be made (or be directed to be made by Westmount or the Principal) which would render the Escrow Agent liable to any of the Purchasers for a breach of Section 81 of the Condominium Act 1998, S.O. 1998, or any amendment thereto or substitution therefore.

### **SECTION 4 - RELEASE OF FUNDS**

#### 4.1 **Deposits Refunded to Purchaser(s) When Purchase Agreement(s) Rescinded or Terminated**

Upon request by the Principal made to Westmount in writing, stating that a Purchaser is entitled to a full or partial refund of his or her Deposit(s), and the production of such evidence as Westmount may reasonably require to confirm same, Westmount hereby agrees to promptly deliver a written direction to the Escrow Agent instructing the latter to issue a cheque drawn on the Designated Trust Account payable to the named Purchaser in the amount of such refund, together with all prescribed interest earned or accrued thereon. It will be a condition precedent to the delivery of such cheque to the Purchaser that the Purchaser sign a release in favour of the Principal, Westmount, the Warranty Corporation and the Escrow Agent, in a form approved by Westmount, together with a representation that the Purchaser has not already received (or agreed to receive) repayment of the deposit from any other party; unless the Purchaser's entitlement to the return of his or her Deposits is predicated on the exercise of the Purchaser's rescission rights pursuant to Section 73 of the Condominium Act 1998, S.O. 1998, as amended, in which case no formal release will be required but the Principal shall nevertheless be obliged to confirm in writing to Westmount and the Escrow Agent that such rescission rights have been duly exercised by the Purchaser and that the Purchaser has not already received (or agreed to receive) repayment of the deposit from any other party.

In the event that a purchase and sale transaction has been terminated under circumstances entitling the Principal to retain the Deposit as its liquidated damages, then the Deposit shall nevertheless remain in the Designated Trust Account until such time as:

- a) The Warranty Corporation has released the Bond for cancellation; or
- b) The Principal has provided Westmount with a release evidencing or confirming such termination and the corresponding forfeiture of the Purchaser's Deposit(s) to and in favour of the Principal, duly executed by the Purchaser in favour of the Principal, Westmount, the Warranty Corporation and the Escrow Agent, in a form approved by Westmount.

Without limiting the generality of the foregoing, it is understood and agreed by the parties hereto that all deposit monies held in the Designated Trust Account which comprise deposits that have been forfeited to the Principal as its liquidated damages (and not as a penalty) following the Principal's termination of the unit sale transaction in which said deposits were paid, as a consequence of the purchaser's outstanding default, and which forfeited deposits are not the subject of (nor covered by) an executed mutual release and termination agreement between the Principal and the defaulting unit purchaser, shall remain in the Designated Trust Account until two years after the earlier of the registration of the condominium or the termination or abandonment of the development and/or construction of the project, and the Principal's refund of all deposit monies theretofore paid to each of the respective unit purchasers in good standing.

#### 4.2 **Payment to the Warranty Corporation, any Purchaser(s) or Westmount for Claims and/or Costs**

If at any time the Warranty Corporation or other obligee calls upon the Surety to make a payment under (or in connection with) a Bond and/or Policies, then Westmount or the Surety shall thereupon be entitled, without notice to (and without the consent of) the Principal, to deliver a written direction to the Escrow Agent instructing the latter to issue one or more cheques drawn on the Designated Trust Account payable directly to the Warranty Corporation, or other obligee, in the amount so demanded by it. If at any time a Purchaser makes a claim for payment under (or in connection with) any Excess Condominium Deposit Insurance Policy, then Westmount shall thereupon be entitled, without notice to (and without the consent of) the Principal, to deliver a written direction to the Escrow Agent instructing the latter to issue one or more cheques drawn on the Designated Trust Account payable to such Purchaser, in such amounts as may be directed by the Surety (but in no event exceeding the maximum insured amount under said Policy). In



addition, in the event that Westmount or the Surety has already made a payment directly to the Warranty Corporation, Oblige or to any such Purchaser (as the case may be), out of its own funds or resources, or in the event that Westmount or the Surety has a claim against the Principal for unpaid premiums, legal fees, disbursements and/or any other outstanding expenses or charges incurred by Westmount or the Surety in respect of the Bonds and/or Policies, the Indemnity Agreement, any of the Collateral Security Instruments and/or this Agreement, then in each of such cases Westmount and/or the Surety may likewise deliver a written direction to the Escrow Agent, without notice to (and without the consent of) the Principal, instructing the Escrow Agent to issue a cheque drawn on the Designated Trust Account payable to Westmount and/or the Surety, in an amount sufficient to reimburse Westmount and/or the Surety for all such payments, claims and/or expenses.

#### 4.3 **Deposits Released Into the Project**

If the Principal and Westmount have heretofore agreed (or hereafter agree) that a portion of the Deposits, in respect of which Westmount has a security interest, may be released and withdrawn from the Designated Trust Account to assist the Principal in either funding approved project costs or repaying any outstanding indebtedness (in whole or in part) to any prior mortgagee(s) or encumbrancer(s) in respect of the Project, then provided the Principal is not in default of its obligations hereunder (nor with respect to any obligations of the Principal set out in the Indemnity Agreement or any of the Collateral Security Instruments), Westmount will issue an authorization to the Escrow Agent to release the said funds to the Principal (or to such other party or parties as may be directed in writing by the Principal) at such times and in such amounts as so agreed to by Westmount and the Principal. The Principal shall also be required to consent in writing to any such release of Deposits.

#### 4.4 **Collapsing the Designated Trust Account**

If at any time Westmount and the Surety cease to be liable under the Bonds and/or Policies in accordance with the terms of the Bonds and/or Policies, then Westmount shall thereupon deliver a written direction to the Escrow Agent instructing the latter to issue:

- a) a cheque drawn on the Designated Trust Account made payable to Westmount, in an amount equivalent to the aggregate of all remaining or outstanding financial obligations of the Principal to Westmount, the Surety, including without limitation, the amount of any unpaid fees or premiums, any amounts owing pursuant to the Indemnity Agreement including out of pocket expenses incurred in obtaining and/or enforcing any security held by Westmount and/or the Surety under (or in connection with) the Bonds, the Policies, the Indemnity Agreement, any of the Collateral Security Instruments and/or this Agreement; and
- b) a cheque drawn on the Designated Trust Account made payable to the Principal (or to whomsoever and in whatsoever manner the Principal may in writing further direct), in the amount of all funds remaining in the Designated Trust Account after payment of all amounts in 4.1 a) above.

#### 4.5 **Compliance with Directions**

The Escrow Agent shall promptly comply with all written directions given by Westmount pursuant to the foregoing provisions of this Section 4.

### **SECTION 5 - GENERAL**

#### 5.1 **Further Assurances**

Each of the Principal, the Escrow Agent and Westmount shall, forthwith upon the request of any party or parties hereto made from time to time, do, make and execute all such further documents, acts, matters and/or things as may be required in order to give effect to this Agreement and the transactions referred to herein.

#### 5.2 **Escrow Agent's Liability**

In consideration of the Escrow Agent acting as the escrow agent hereunder and payment of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, each of the other parties hereto agrees to hold the Escrow Agent free, harmless and fully indemnified from and against all claims which may be made against the Escrow Agent arising out of (or in connection with) the performance of the duties of the Escrow Agent set out in this Agreement, including without limitation, all expenses incurred by the Escrow Agent in complying with the terms and provisions of this Agreement, provided that the Escrow Agent has acted honestly, in good faith and not negligently in the performance and fulfillment of such duties, and is not in breach of any terms or provisions of this Agreement.

#### 5.3 **Notices**

- a) Any notice or other communication required or desired to be given hereunder (a "notice") shall be in writing and may be effectively given by delivering same by courier, ordinary mail, hand delivery, fax or email addressed to the undersigned at their respective mailing addresses, fax numbers or email addresses as set out herein, or to such other mailing address, fax number or email address as such party may have notified the other parties in writing.

b) Any notice which has been mailed pursuant to section 5.3(a) shall be deemed to have been received by the other party on the third banking day next following the date of mailing/posting thereof, provided the postal service is in operation during such time, on the next business day following the date of such personal delivery (or delivery by courier) or telefax transmission, or on the next business day after which the email was sent, provided that the sender has not received a reply email indicating that an error in delivery occurred or that the recipient is away (for example, an automated "out of office" reply). During any interruption of postal service, all notices shall be delivered personally or by courier or by telefax transmission, or by email. The addresses of the parties for the purposes hereof shall respectively be:

- (i) in the case of notice to the Principal  
**10268054 CANADA CORP.**  
 Attention: Isaac Olowolafe  
 16 McAdam Avenue  
 Toronto, ON M6A 0B9  
 Fax Number: 905-553-7325  
 Email Address: olowolafe@gmail.com
  
- (ii) in the case of notice to Westmount:  
**WESTMOUNT GUARANTEE SERVICES INC.**  
 Attention: Brian Argue  
 600 Cochrane Drive, Suite 205  
 Markham, ON L3R 5K3  
 Fax Number: 647-494-9859  
 Email Address: brian@westmountguarantee.com
  
- (iii) in the case of notice to the Escrow Agent:  
**MILLER THOMSON LLP**  
 Attention: Ron Fairbloom  
 40 King Street West  
 Toronto, ON M6A 0B9  
 Fax Number: 416-595-8695  
 Email Address: rfairbloom@millerthomson.com

#### 5.4 **Binding on Successors and Permitted Assigns**

This Agreement shall be binding upon, and correspondingly enure to the benefit of, each of the parties hereto and their respective successors and assigns, provided however that neither the Principal nor the Escrow Agent shall be entitled to assign their respective rights and/or obligations under this Agreement to any party or parties without the express written consent of Westmount, and which consent may be denied or withheld arbitrarily and for any reason whatsoever.

#### 5.5 **Governing Law**

This Agreement, the transactions referred to herein, and all other documents delivered hereunder shall be construed and interpreted in accordance with (and shall be correspondingly governed by) the laws of the Province of Ontario, and each of the parties hereto shall attorn to the jurisdiction of the Superior Court of Justice for the Province of Ontario.

#### 5.6 **Time**

Time shall be the essence of this Agreement, and with respect to the performance and fulfillment of all obligations provided or contemplated herein.

#### 5.7 **Not Partners**

Nothing contained herein shall be construed so as to make Westmount, the Escrow Agent and the Principal partners of one another.

#### 5.8 **Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and, except as herein stated and in the documents to be executed and delivered pursuant hereto, this Agreement contains all of the representation, undertakings and agreements of the respective parties hereto.

There are no verbal representations, undertakings or agreements of any kind between or amongst the parties hereto with respect to the subject matter hereof, except as stated herein. This Agreement may not be modified or amended except with the written consent of all parties hereto.



5.9 **Receipt of Copy**

Each of the Principal and the Escrow Agent acknowledges receipt of an executed copy of this Agreement.


6.0 **Electronic Execution of the Agreement**

It is expressly acknowledged and agreed that the execution of this Agreement may be made or manifested by way of an electronic signature (as such term is defined in The Electronic Commerce Act 2000, S.O. 2000, as amended), undertaken by or through a computer program or any other electronic means, as expressly provided or contemplated by (and in accordance with the provisions of) The Electronic Commerce Act 2000, S.O. 2000, as amended.

Each of the parties hereto further acknowledges and agrees that this Agreement may be executed via telefax transmission (and the execution of a telefaxed version hereof by any or all of the undersigned parties shall have the same force and effect as if same were originally executed), and that a photocopy or telefaxed copy of this executed Agreement may be relied upon by all of the undersigned parties to the same extent as if it were an original executed version addressed specifically to each of them.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement and it becomes effective as of the day and year first above written.

**10268054 CANADA CORP.**

Per:   
Name: Isaac Olowolafe  
Title: President

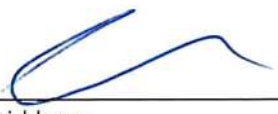
I have authority to bind the Corporation

**WESTMOUNT GUARANTEE SERVICES INC.**

  
Per: \_\_\_\_\_  
Name: Jim Emanoilidis  
Title: Authorized Signing Officer

I have authority to bind the Corporation

**MILLER THOMSON LLP**

  
Per: \_\_\_\_\_  
Name: Ron Fairbloom  
Title: Partner

I have authority to bind the firm acting as Escrow Agent

**NAME OF PARTNER IN (OR PRINCIPAL SOLICITOR OF) ESCROW AGENT**

NAME: Ron \_\_\_\_\_ Fairbloom  
(First name Initial Last name)

ADDRESS: 40 King Street West, Suite 5800, Toronto, ON, M5H 3S1

**TAB G**

## **Deposit Refund Protocol**

### **10268054 Canada Corp.**

- 1) Miller Thomson LLP (“**MT LLP**”) will in a reasonable time frame provide to Tarion Warranty Corporation (“**Tarion**”), the Statutory Declaration in the form attached as Schedule "A" hereto in respect of the deposits (“**Deposits**”) of purchasers of units (“**Purchasers**”) in the project that was to have been constructed at 135 Mandrake Street, Ajax, Ontario (the "**Project**").
- 2) BDO Canada Limited in its capacity as receiver of 10268054 Canada Corp. (the “**Receiver**”) will provide to Tarion the Statutory Declaration in the form attached as Schedule "B" hereto in respect of the Project.
- 3) The Receiver will request that the principal (the "**Principal**") of 10268054 Canada Corp. provide to Tarion the Statutory Declaration in the form attached as Schedule "C" hereto. Failure by the Principal to provide such Statutory Declaration will not prevent the refund of the Deposits to the Purchasers.
- 4) MT LLP will send an email or letter to the Purchasers in the Project for which Deposits have not been refunded as at the date hereof notifying them that they may obtain a refund of their Deposits and the instructions for them to do so. These instructions will include requirements that Purchasers execute a Release and Termination Agreement, provide Photo Identification, a mailing address and a Receipt. A copy of such email or letter will be provided to Tarion, the Receiver and Westmount Guarantee Services Inc. on behalf of Aviva Insurance Company of Canada ("**Westmount**"). Any Purchasers who refuse to execute and return a Release and Termination Agreement, will be requested to at least execute and return a Written Acknowledgment Confirming the Amount of Monies Refunded and Termination of the Purchase Transaction prior to the refund of Deposits to the Purchasers. Failure by Purchasers to comply with either of the above requirements/requests will not prevent the refund of Deposits to the Purchasers; provided, that MT LLP sends the Purchaser's Deposit Monies by registered mail to the Purchaser named in the Purchase Agreement, and provides confirmation of same to Tarion, Westmount and the Receiver.
- 5) Purchasers will be asked to comply with the instructions referred to in paragraph 4 above, including returning their executed Release and Termination Agreement or a Written Acknowledgment Confirming the Amount of Monies Refunded and Termination of the Purchase Transaction, along with Photo Identification to MT LLP, which items MT LLP will forward to Westmount, if received.



- 6) From time to time, MT LLP will assemble the documents listed below (if available) in a single binder organized by unit number for each of the Deposits refunded after the date hereof at such time ("**Closing Binders**"):
- Executed Release and Termination Agreements, if obtained
  - A Copy of the First Page of the Unit Agreement of Purchase and Sale ("**APS**")
  - A Copy of any Assignment of the APS by the Purchaser
  - Copies of any Form 4
  - Written Acknowledgment executed by Purchaser Confirming the Amount of Monies Refunded and Termination of the Purchase Transaction, if obtained
  - An Updated Summary of the Deposits Released and Remaining

Closing Binders shall be delivered electronically to Tarion, the Receiver and Westmount.

- 7) After Tarion receives the most recent Closing Binder, Tarion will within ten business days of receipt, confirm by email to Westmount that the documentation is complete such that Tarion's liability to the relevant Purchaser(s) for claims in respect of their respective Deposits will be extinguished once MT LLP releases the Deposit to the Purchaser. "Deposit" means any amount that would be a valid deposit claim under the Ontario New Home Warranties Plan Act.
- 8) After Westmount receives the email from Tarion referred to in the paragraph above, MT LLP will then advise Purchasers that their deposit refund cheques (including the funds relating to the applicable Deposit) made out to the Purchaser(s) named in the APS or any permitted assignee or designee so designated in writing will be mailed to the address provided by the Purchasers or permitted assignee or permitted designee. Cheques will be made out to the name of (i) the Purchaser(s) shown on the APS; (ii) a permitted assignee(s); or (iii) a permitted designee(s).
- 9) Upon release of Deposits, MT LLP will provide in a reasonable time frame to Tarion a Statutory Declaration in the form attached as Schedule "A" in respect of such refunded deposits.
- 10) From time-to-time, and upon being satisfied that its liability to the relevant Purchasers for claims in respect of their respective Deposits has been extinguished, Tarion will provide confirmation to Westmount that the surety bond provided in respect of the Project (the "Tarion Bond") is reduced by the relevant amount on a unit-by-unit basis.
- 11) MT LLP will every month, provide Tarion, the Receiver and Westmount with a ledger of: (i) deposits paid to MT LLP (including Deposits released); and (ii) deposits paid to MT LLP (including Deposits) not released.

- 12) Once all Deposits have been returned to Purchasers and upon being satisfied that its liability to the relevant Purchasers for claims in respect of their respective Deposits has been extinguished, Tarion will correspondingly reduce the amount of the Tarion Bond; provided, however, that Tarion shall at all times be entitled to retain a sufficient portion of the Tarion Bond to cover Tarion's liabilities in respect of amounts secured by the Tarion Bond that have not been extinguished at the time of any reduction. Upon being satisfied that its liability in respect of amounts secured by the Tarion Bond has been extinguished, Tarion will return the Tarion Bond to Westmount for cancellation.

Schedule "A"

**STATUTORY DECLARATION**

CANADA	)	IN THE MATTER OF the proposed development
	)	(the "Project") by 10268054 Canada Corp. (the
	)	"Vendor") situated in the Town of Ajax on those
PROVINCE OF ONTARIO	)	lands and premises owned by the Vendor located at
	)	135 Mandrake Street, Ajax, Ontario
	)	
TO WIT:	)	

I, \_\_\_\_\_, of the City of \_\_\_\_\_, DO SOLEMNLY DECLARE THAT:

1. Miller Thomson LLP is the escrow agent for the Vendor and Westmount Guarantee Services Inc. pursuant to a Deposit Trust Agreement.
2. I \_\_\_\_\_, am a partner of Miller Thomson LLP, and as such have knowledge of the matters declared herein.
3. All deposits paid to Miller Thomson LLP under agreements of purchase and sale in respect of the Project units numbered \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ have been refunded to the respective purchasers of such units or their permitted assignees or permitted designees by Miller Thomson LLP.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

**DECLARED BEFORE ME** by Video Conference by \_\_\_\_\_ of the City of \_\_\_\_\_, at the City of \_\_\_\_\_, of the Province of Ontario, on the \_\_\_\_\_ day May, 2021 in accordance with O.Reg.431/20, Administering Oath or Declaration Remotely.

\_\_\_\_\_  
A Commissioner etc.

\_\_\_\_\_  
Name:  
Title:

**Schedule "B"**

**STATUTORY DECLARATION**

CANADA )  
 )  
 )  
 )  
 PROVINCE OF ONTARIO )  
 )  
 )  
 )  
 TO WIT: )

IN THE MATTER OF the proposed development  
 (the "Project") by 10268054 Canada Corp. (the  
 "Vendor") situated in the Town of Ajax on those  
 lands and premises owned by the Vendor located at  
 135 Mandrake Street, Ajax, Ontario

I, \_\_\_\_\_, of the City of \_\_\_\_\_, DO SOLEMNLY DECLARE THAT:

1. I am a \_\_\_\_\_ of BDO Canada Limited, the receiver appointed in respect of the Vendor.
2. The Vendor is not proceeding with the Project that the Vendor had proposed to construct on the lands and premises described above.
3. To the best of my knowledge and belief (which is based on information provided by the Vendor): (i) the Vendor entered into ■ (■) agreements of purchase and sale with respect to units in the Project (collectively, the "Condominium Sales Agreements"); (ii) aside from the Condominium Sales Agreements, no other agreements of purchase and sale have been entered into in respect of the Project or the lands and premises described above; and (iii) nothing has come to my attention that would suggest that sales of units in the Project were agreed to other than pursuant to the Condominium Sales Agreements.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

**DECLARED BEFORE ME** by Video Conference by \_\_\_\_\_ of the City of \_\_\_\_\_, at the City of \_\_\_\_\_, of the Province of Ontario, on the \_\_\_\_\_ day May, 2021 in accordance with O.Reg.431/20, Administering Oath or Declaration Remotely.

\_\_\_\_\_  
 A Commissioner etc.

\_\_\_\_\_  
**Name:**  
**Title:**

**Schedule "C"**

**STATUTORY DECLARATION**

CANADA )  
 )  
 )  
 )  
 PROVINCE OF ONTARIO )  
 )  
 )  
 )  
 TO WIT: )

IN THE MATTER OF the proposed development  
 (the "Project") by 10268054 Canada Corp. (the  
 "Vendor") situated in the Town of Ajax on those  
 lands and premises owned by the Vendor located at  
 135 Mandrake Street, Ajax, Ontario

I, \_\_\_\_\_, of the City of \_\_\_\_\_, DO SOLEMNLY DECLARE THAT:

1. I am \_\_\_\_\_ of the Vendor, and as such have knowledge of the matters hereinafter declared.
2. The Vendor is not proceeding with the Project that the Vendor had proposed to construct on the lands and premises described above.
3. The Vendor provided all deposits that it received in respect of the sale of units in the project to Miller Thomson LLP, the escrow agent for the Vendor.
4. The Vendor entered into only ■(■) agreements of purchase and sale with respect to units in the Project and did not enter into any other agreements of purchase and sale for units in the Project.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

**DECLARED BEFORE ME** by Video Conference by \_\_\_\_\_ of the City of \_\_\_\_\_, at the City of \_\_\_\_\_, of the Province of Ontario, on the \_\_\_\_\_ day May, 2021 in accordance with O.Reg.431/20, Administering Oath or Declaration Remotely.

\_\_\_\_\_  
 A Commissioner etc.

\_\_\_\_\_  
**Name:**  
**Title:**

**TAB H**



### Final Discharge Statement

**Date:** May 27, 2021

**Via E-mail:** [JParisi@bdo.ca](mailto:JParisi@bdo.ca)  
[dmichaud@robapp.com](mailto:dmichaud@robapp.com)

**Attention:** Josie Parisi  
BDO Canada Limited, Toronto Centre FRS  
20 Wellington E, Suite 500  
Toronto, Ontario M5E 1C5

and

Dominique Michaud  
Robins Appleby LLP  
Suite 2600  
120 Adelaide Street West  
Toronto, Ontario M5H 1T

**Centurion Loan No:** 198 A&B  
**Borrower(s):** 10268054 Canada Corp.  
**Property Address:** 135 Mandrake Street, Ajax, Ontario

Further to your request, please be advised that the total amount due and payable to discharge this mortgage, as at June 8, 2021 is \$9,036,711.94 calculated as follows:

	<u>Loan 198A</u>	<u>Loan 198B (Receivership)</u>
<b>Funding Date:</b>	December 21, 2018	March 15, 2021
<b>Maturity Date:</b>	January 1, 2021	On Demand
<b>Interest Rate:</b>	Prime + 4.30% - Floor Rate 8%	10%
L198A - Principal Balance as at May 27, 2021:	\$	7,374,509.57
L198B - Principal Balance as at May 27, 2021:	\$	100,000.00
L198A - Interest Accrued to June 7, 2021:	\$	1,559,594.06
L198B - Interest Accrued to June 7, 2021:	\$	2,358.31
Administrative Fee:	\$	250.00
<b>Total Amount Due (by 1:00 p.m. June 8, 2021):</b>	<b>\$</b>	<b>9,036,711.94</b>

The Per Diem Interest charge is \$2,006.40 (after 1:00 p.m.):

Loan 198A	\$	1,978.99
Loan 198B	\$	27.41
<b>Total Per Diem:</b>	<b>\$</b>	<b>2,006.40</b>

#### CONDITIONS:

**Certified** Funds received after 1:00pm of the proposed discharge date will be subject to an additional daily interest charge of **\$2,006.40** to the next business day.

Payment must be by way of wire (see wire instructions attached), by 1:00 p.m. on June 8, 2021.

The Borrower will be responsible for any costs, legal or otherwise, associated with the discharge, including the preparation of the Discharge of Charge.

Please note this statement is valid to June 30, 2021, with applicable per diem.

Should the prime rate change prior to payout, then this statement maybe subject to change. An updated statement will be issued to reflect the change in interest rate.

Please feel free to contact us should you have any questions or require any further information.

Yours truly,

**CENTURION MORTGAGE CAPITAL CORPORATION**

Jennifer Ha  
Senior Mortgage Administrator

Jean Maraj  
Director, Mortgage Funding & Administration

E. & O. E



<b>Beneficiary Name:</b>	Centurion Mortgage Services Corporation In Trust
<b>Beneficiary Address:</b>	25 Sheppard Avenue West, Suite # 1800, Toronto, ON M2N 6S6
<b>Bank Name:</b>	TD Canada Trust
<b>Bank Address:</b>	220 Commerce Valley Drive West, Unit 100, Markham, ON L3T 0A8
<b>Bank ID:</b>	004
<b>Bank Transit:</b>	10852
<b>Bank Account:</b>	10855366227
<b>Ref.:</b>	CMCC - Loan 198 - Discharge

**Centurion Mortgage Capital Corporation Contacts:**

**Jean Maraj**

Director, Mortgage Funding & Administration  
T (416) 733-5600 ext. 320  
F (416) 733-5619

**Centurion Mortgage Capital Corporation**

25 Sheppard Avenue West, Suite 1800  
Toronto, ON M2N 6S6

**Jennifer Ha**

Senior Mortgage Administrator  
T (416) 733-5600 ext. 429  
F (416) 733-5619

**Centurion Mortgage Capital Corporation**

25 Sheppard Avenue West, Suite 1800  
Toronto, ON M2N 6S6

**Richard Bruce**

Senior Mortgage Administrator  
T (416) 733-5600 ext. 321  
F (416) 733-5619

**Centurion Mortgage Capital Corporation**

25 Sheppard Avenue West, Suite 1800  
Toronto, ON M2N 6S6



# TAB I

**IN THE MATTER OF THE RECEIVERSHIP OF  
10268054 CANADA CORP**

**RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS  
as at May 28, 2021**

**RECEIPTS:**

Receiver's Borrowings	100,000.00
Advance from Receiver	71.54
<b>Total Receipts</b>	<b><u>\$ 100,071.54</u></b>

**DISBURSEMENTS:**

Legal Fees	18,826.50
Advertising for Sale Process	4,925.00
Insurance	4,480.00
Security	2,825.00
HST on Legal Fees	2,405.85
HST on Disbursements	1,007.50
Filing Fees	71.54
Bank Charges	17.00
<b>Total Disbursements</b>	<b><u>\$ 34,558.39</u></b>

**RECEIPTS OVER DISBURSEMENTS**

**\$ 65,513.15**

**TAB J**

Court File No. CV-20-00652174-00CL

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

**BETWEEN:**

**CENTURION MORTGAGE CAPITAL CORPORATION**

Applicant

- and -

**10268054 Canada Corp.**

Respondents

**AFFIDAVIT OF JOSIE PARISI**

I, JOSIE PARISI, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY** that:

1. I am a Partner of BDO Canada Limited, and as such have personal knowledge of the matters referred to herein.
2. By Order of the Honourable Justice Dietrich, dated January 14, 2021 (the "Order"), BDO Canada Limited was appointed as Receiver (the "Receiver") of 10268054 Canada Corp.
3. Pursuant to the Order, the Receiver has provided services and incurred disbursements which are more particularly described in the detailed accounts attached hereto and marked as Exhibit "A".
4. The time shown in the detailed accounts attached as Exhibit "A" are a fair and accurate description of the services provided and the amounts charged by the Receiver, which reflect the Receiver's time as billed at its standard billing rates.

- 5. The Receiver requests that the Court approve its interim accounts for the period from 2 December 2020 to 20 May 2021 in the amount of \$146,645.23 inclusive of HST of \$16,870.69 for the services set out in Exhibit "A".
- 6. This affidavit is sworn in support of the Receiver's motion for, among other things, approval of its fees and disbursements and those of its legal representatives and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto, )  
 in the Province of Ontario, this )  
 31<sup>st</sup> day of May 2021. )

  
 \_\_\_\_\_  
 Commissioner for Taking Affidavits, etc )



\_\_\_\_\_  
 Josie Parisi, CPA, CA, CBV, CIRP, LIT )

**Antonio Montezano, a Commissioner, etc.,  
 Province of Ontario, for BDO Canada LLP  
 and BDO Canada Limited, and  
 their subsidiaries, associates and affiliates.  
 Expires December 21, 2023.**

This is Exhibit "A" referred to in the affidavit of

Josie Parisi

Sworn before me this 31<sup>st</sup> day of May 2021



A COMMISSIONER FOR TAKING AFFIDAVITS

**Antonio Montesano, a Commissioner, etc.,  
Province of Ontario, for BDO Canada LLP  
and BDO Canada Limited, and  
their subsidiaries, associates and affiliates.  
Expires December 21, 2023.**



Tel: 416 865 0210  
 Fax: 416 865 0904  
 www.bdo.ca

BDO Canada Limited  
 20 Wellington Street E, Suite 500  
 Toronto ON M5E 1C5 Canada

***Strictly Private & Confidential***

BDO Canada Limited  
 Receiver of 10268054 Canada Corp.  
 20 Wellington Street East, Suite 500  
 Toronto, ON M5E 1C5

Date	Invoice
28 May 2021	CINV#1

**RE 10268054 CANADA CORP.**

**TO OUR FEE FOR PROFESSIONAL SERVICES** rendered from 2 December 2020 to 20 May 2021 in connection with our Receivership Engagement of the above-noted, as described below.

Our Fee	\$ 128,928.00
<b>Disbursements:</b>	
Searches	25.00
Filing Fees	71.54
MLS Listing	750.00
	846.54
Subtotal	129,774.54
HST - 13.00% (#R101518124)	16,870.69
	\$ 146,645.23

**Summary of Time Charges:**

	Hours	Rate	Amount
J. Parisi, Partner	38.00	495.00	18,810.00
G. Cerrato, Partner	73.00	465/495	35,799.00
M. Litwack, Sr. Manager	145.60	465.00	67,704.00
T.Schiappa, Analyst	9.50	185.00	1,757.50
S. Duggal, Junior	8.75	165.00	1,443.75
A. Kunic, Junior	3.00	165.00	495.00
G. Corio, Junior	12.75	165.00	2,103.75
T. Montesano, Administrator	1.60	200.00	320.00
Administrative Support	3.30	150.00	495.00
Total	295.50		\$ 128,928.00

Date	Professional	Description	Hrs.
2-Dec-20	Gary Cerrato	Conference call with D. Michaud, J. Parisi and R. Buzzell to discuss urgent need to move forward with receivership motion, discuss strategy re sales process; review of Dream Maker website; call with B. Bone to arrange site visit; call with B. Bone re site visit.	1.0
2-Dec-20	Josie Parisi	Planning call with G Cerrato re pre-filing report.	0.6
4-Dec-20	Gary Cerrato	Drafting of pre-filing court report.	2.5
7-Dec-20	Gary Cerrato	Draft Receiver's pre-filing report.	3.7
7-Dec-20	Josie Parisi	Review court report and provide comments; call with G. Cerrato.	0.9
8-Dec-20	Gary Cerrato	Call with J. Parisi and D. Michaud to review report and discuss sale process; update report and sales process schedule; review of deposit schedule received from D. Michaud and compare with schedules in motion record.	2.3
8-Dec-20	Josie Parisi	Call with Robins Appleby re draft report and sales process.	0.6
16-Dec-20	Gary Cerrato	Final update to report and assemble appendices and forward to D. Michaud;	0.7
13-Jan-21	Bridget Chiasson (On Leave)	Various emails to J. Parisi and G. Cerrato re setting up website; process request to IT to open site; notify team re same.	0.3
13-Jan-21	Josie Parisi	Prepare for court call.	0.4
14-Jan-21	Gary Cerrato	Conference call with J. Parisi, D. Michaud and R. Buzzell to discuss offer for the real estate; review of court order and judge's endorsement.	1.0
14-Jan-21	Josie Parisi	Court call; call with lender and counsel; return to court call and follow up meeting; discussions with G. Cerrato about list of info required to commence preparing marketing documents.	1.3
18-Jan-21	Gary Cerrato	Call with M. Litwick to review information request; review of Intrepid construction report; draft email to G. Azeff to request information.	0.9
19-Jan-21	Michael Litwick	Discussions with G Cerrato; review of motion materials and preparation of preliminary information request;	2.0



Date	Professional	Description	Hrs.
		meeting with G Cerrato to review file materials, planning and finalizing of information request list.	
20-Jan-21	Josie Parisi	Discussion with D. Michaud re next steps; review info list, discussions with G. Cerrato.	0.5
21-Jan-21	Josie Parisi	Correspondence with R. Tuzi re securing the property; call with counsel re kick off.	0.3
22-Jan-21	Gary Cerrato	Conference call with J. Parisi and D. Michaud to discuss receivership mandate; call with M. Litwack to discuss taking possession; draft email to R. Buzzell;	1.5
22-Jan-21	Josie Parisi	Kick off call with Robins Appleby; correspondence with R. Tuzi re securing premises; review insurance information, discussions with M. Litwack re banking letters.	1.1
22-Jan-21	Michael Litwack	Discussions with G Cerrato; discussion with J Parisi; revision to door notice; drafting of bank notices; call to G Azeff re information requests; call to A Apps re information requests.	1.1
25-Jan-21	Michael Litwack	Draft and preparation of fax for letter to Bank of Nova Scotia; email to A Apps re request for books and records; email to director re books and records; discussions re books and records.	0.9
26-Jan-21	Josie Parisi	Calls with M. Litwack re problems in obtaining information from debtor.	0.3
26-Jan-21	Michael Litwack	Emails re obtaining books and records; direction re fax to Bank of Nova Scotia; call from Bank of Nova Scotia; discussions re mailing; drafting of s.245/246 notice; discussions re availability for creditor mailing.	0.8
27-Jan-21	Gary Cerrato	Call with J. Parisi re strategize; call with M. Litwack to discuss sale process; taking possession issues; discussion re insurance; call to Intrepid to obtain cost to update report; call to Dream Maker office; review of motion records re information for sale.	1.9
27-Jan-21	Josie Parisi	Call with G. Cerrato; call with D. Michaud; correspondence with M. Litwack.	0.7
27-Jan-21	Michael Litwack	Preparing s245/246 report; call and email to Town of Ajax re property tax assessments; emails re PPSA search; review of PPSA; review of construction reporting to	2.0

Date	Professional	Description	Hrs.
		prepare list of creditors; meeting with G. Cerrato and J. Parisi.	
28-Jan-21	Gary Cerrato	Conference call with J. Parisi and M. Litwack to discuss file issues; review and provide comments on S. 245 report; review of Intrepid Report to determine costs of construction; review of information provided by Debtor.	2.7
28-Jan-21	Josie Parisi	Update call with G. Cerrato; correspondence with Rocco; review correspondence with A. Apps; review 245/6 notice and provide comments.	1.1
28-Jan-21	Michael Litwack	Review of files and information sent by A. Apps; discussions with J Parisi and G Cerrato; emails with A. Apps re books and records; preparing creditor list for s245/246 report; review of mortgage charges; emails re property taxes; drafting of teaser, NDA and newspaper advertisement for sale process; emails with Town of Ajax re property taxes; calls and emails to insurance broker; revision to s.245/246 reports and discussions re revisions; review of construction reporting re land acquisition values and discussions re same.	3.6
29-Jan-21	Josie Parisi	Review 245/6 notices and execute; call with Debtor and his counsel to go through info request listing.	0.9
29-Jan-21	Michael Litwack	Finalized 245/246 report; prepared creditor list and mailing; prepared affidavit of mailing; direction re mailing; meeting with G Cerrato re general file matters; meeting with J Parisi re general file matters; meeting with director of debtor and A. Apps re books and records; revisions to draft advertisement and teaser.	2.8
1-Feb-21	Gary Cerrato	Update call with M. Litwack re record retention, insurance and sale process update.	0.8
1-Feb-21	Michael Litwack	Drafting of NDA and CIM; preparation of distribution list for teaser and NDA; meeting with G. Cerrato re file updates and sale process; discussion with B. Chiasson re newspaper ads; emails with I. Olowolafe re books and records.	3.6
2-Feb-21	Michael Litwack	Continued work on CIM; call to Town of Ajax re outstanding requirements for development; email to Town of Ajax; Email to I. Olowolafe re books and records.	2.1

Date	Professional	Description	Hrs.
3-Feb-21	Gary Cerrato	Review of information for sale process; review of sale process timelines; review of email of buyer's list.	1.5
3-Feb-21	Michael Litwack	Discussion re books and records; emails re books and records.	0.4
4-Feb-21	Michael Litwack	Preparation of insurance forms for FCA; call with A. Coluccio (FCA); discussion re insurance requirements; call and email to Daily Commercial News re advertisement; call to NRU Publishing re advertisement; preparation of schedule for costing on advertising budget.	1.7
5-Feb-21	Gary Cerrato	Conference call with J. Parisi and M. Litwack to discuss sale process.	0.5
5-Feb-21	Josie Parisi	Update call with G. Cerrato and M. Litwack.	0.2
5-Feb-21	Michael Litwack	Meeting re file updates; call and emails with Daily Commercial News re ad; direction re Globe and Mail ad; drafting of CIM; revision to information request schedule.	3.6
8-Feb-21	Gary Cerrato	Review of correspondence received; correspondence with M. Litwack re various sale process issues.	0.5
8-Feb-21	Michael Litwack	Emails re insurance premiums with Firstbrooke Cassie; emails re advertisement in Globe and Mail; revision to advertisements for Daily Commercial News; prepared advertisement for NRU; review of options for listing property on MLS; continued draft of CIM; emails with interested parties; emails re information from company and potential motion; signup on Costar website and review of advertising options; email to NRU re publication requirement; review of information received re deposits and sale agreements; email re deposits and sale agreements.	4.3
9-Feb-21	Gary Cerrato	Conference call A. Slavens and D. Michaud to discuss receivership and Tarion issues.	0.6
9-Feb-21	Michael Litwack	Emails re site security; drafting of CIM; review of materials re sale of units; emails re sale of units; calls with advertisers; revisions to advertisements; emails re globe and mail; emails and discussions re hosting of dataroom; Review of options for dataroom.	3.5
10-Feb-21	Gary Cerrato	Conference call with J. Parisi and M. Litwack.	0.9

Date	Professional	Description	Hrs.
10-Feb-21	Josie Parisi	Update call with team, review teaser.	0.9
10-Feb-21	Michael Litwack	Emails and discussions re dataroom; completion of draft CIM; Prepared wording for e-mail blast; prepared wording for web posting; Revision to ad for NRU; emails with NRU; emails with ██████████ re MLS listing; meeting with J. Parisi and G. Cerrato.	4.7
11-Feb-21	Gary Cerrato	Discussions re procedure to be followed re contacting interested parties; call with A. Walls internal counsel re same.	1.5
11-Feb-21	Josie Parisi	Review CIM, NDA, welcome page verbiage and advertisements.	1.3
11-Feb-21	Michael Litwack	Meeting re e-mail distribution; call with T. Schiappa re mailing; emails re insurance; email to counsel re NDA and CIM; review of comments on CIM and revisions made; revisions to teaser and e-mail ██████████ re posting with Insolvency Insider; preparation of budget for operations; email to J. Parisi re operations budget.	2.3
12-Feb-21	Gary Cerrato	Review of CIM and NDA; review and update template APA.	2.5
12-Feb-21	Michael Litwack	Emails re NDA; review of counsel comment to NDA and CIM and revisions to NDA and CIM; response to interested party inquiries; emails and discussions re Canadian Anti-Spam Legislation and sending e-mail teaser; drafting and preparing e-mail for distribution; discussions with T. Schiappa re email list; preparation of MLS listing documents; emails re adding sale process section to Extranet website.	3.9
16-Feb-21	Gary Cerrato	Review of data room; review of website; field calls from prospective purchasers; working on bank account analysis.	3.5
16-Feb-21	Giuseppe Corio	Calls and emails with perspective offerors.	5.0
16-Feb-21	Josie Parisi	Call with G. Cerrato re bank statement activity; correspondence with BNS; review MLS documents; commence preparing report to court re non-compliance.	1.4
16-Feb-21	Michael Litwack	Completion of MLS listing forms; calls and emails with interested parties; voicemail and call with purchaser; review of sales agreement documents provided by the purchaser; email re purchaser; completion of NRU insertion order and emails re same; call with T. Schiappa	3.4

Date	Professional	Description	Hrs.
		re emailing; liaising with IT re changes to Extranet website.	
16-Feb-21	Sumit Duggal	Outreach and updating tracker.	3.5
16-Feb-21	Timothy Schiappa	Calls and emails with perspective offerors.	2.0
17-Feb-21	Gary Cerrato	Call with J. Parisi and D. Michaud to discuss receiver's report re noncompliance with providing financial information to Receiver; discuss preliminary findings from analyzing bank account activity; finalize bank account review; review of motion records and security documents; call with J. Parisi re same.	2.5
17-Feb-21	Giuseppe Corio	Calls and emails with perspective offerors.	1.0
17-Feb-21	Josie Parisi	Discussions with G. Cerrato re banking activity; call with D. Michaud re report framework; prepare report.	5.8
17-Feb-21	Michael Litwack	Emails re insurance coverage; draft of sales process letter; emails re MLS listing; emails re CIM; posting of CIM to dataroom; completion of forms for Listmenow.ca and emails re same; correspondence with corporate finance team re mailing to interested parties; review of NDAs received and responded to parties.	2.6
17-Feb-21	Sumit Duggal	Outreach and updating tracker.	0.5
17-Feb-21	Timothy Schiappa	Calls and emails with perspective offerors.	2.0
18-Feb-21	Gary Cerrato	Updating report; draft email to R. Fairbloom re obtaining a trust ledger statement from Centurion advance.	2.1
18-Feb-21	Giuseppe Corio	Calls and emails with perspective offerors.	2.0
18-Feb-21	Josie Parisi	Review proposed changes to the court report; correspondence with D. Michaud re further communication with Olowolafe; correspondence with G. Cerrato re inconsistencies in engineering report; changes to the Receiver's first report.	1.8
18-Feb-21	Michael Litwack	Responding to interested parties emails and calls; review NDAs, saved and provided access to dataroom; call with corporate finance re emails and calls for interested parties; review and comment on draft first receiver's report; call with Daily Commercial News re advertisement placement; emails re MLS placement.	3.9

Date	Professional	Description	Hrs.
18-Feb-21	Sumit Duggal	Sending out NDA and Teaser to prospective bidders.	0.75
19-Feb-21	Gary Cerrato	Review of draft report; amendments to report; review of Invoice tracking log and summarize payments post-Centurion advance; review of draft motion record; discussion with J. Parisi re file.	3.1
19-Feb-21	Giuseppe Corio	Calls and emails with perspective offerors.	1.5
19-Feb-21	Josie Parisi	Additional changes to report, call with D. Michaud, call with G. Cerrato; review NOM.	1.7
19-Feb-21	Michael Litwack	Emails re advertising in Daily Commercial News; preparation of digital ad for Daily Commercial News website; completion and signing of forms and emails re same.	1.2
19-Feb-21	Timothy Schiappa	Calls and emails with perspective offerors.	2.5
21-Feb-21	Josie Parisi	Review notice of Motion and provide comments to Robins Appleby.	0.4
22-Feb-21	Gary Cerrato	Call with M. Litwack to discuss updates to the report and discuss sale process status.	0.7
22-Feb-21	Gary Cerrato	Updating court report.	2
22-Feb-21	Giuseppe Corio	Calls and emails with perspective offerors.	0.75
22-Feb-21	Josie Parisi	Review emails from D. Michaud and make various adjustments to the court report; discussions with D. Michaud re NOM and draft order.	1.8
22-Feb-21	Michael Litwack	Calls and emails with inquiries from interested parties; review of NDAs; adding access to Venue dataroom; emails re issues with NDAs; meeting with G Cerrato re review of court report; emails re court report; revised and corrected listing documents for MLS/ICX listing and emails re same.	3.3
23-Feb-21	Gary Cerrato	Email to Scotiabank re missing bank statements; update bank analysis; update court report.	2.5
23-Feb-21	Michael Litwack	Emails re interest in sale process and access to dataroom; follow up emails to parties that signed NDA but had not signed in to dataroom; email re MLS listing documents; review of NDAs and emails re same; emails re insurance	3.9

Date	Professional	Description	Hrs.
		premiums; emails re property taxes; review and revision to Receiver's Report; meeting with G. Cerrato re review of report; redaction of information for creation of appendices; formatting of report to add appendices.	
24-Feb-21	Josie Parisi	Call with G. Cerrato regarding issues identified in the closing book.	0.6
24-Feb-21	Michael Litwack	Calls and emails with interested parties; emails re property taxes and interest rates; revision of package of information for MLS listing; emails with brokerage re MLS listing; emails re payment for MLS listing; emails re access to dataroom; providing access to dataroom.	2.1
24-Feb-21	Sumit Duggal	Received a call from potential bidder for more info.	0.25
25-Feb-21	Michael Litwack	Emails re access to dataroom.	0.2
26-Feb-21	Gary Cerrato	Review of cheque copies; discussion with J. Parisi re the need for a supplemental report.	0.5
1-Mar-21	Gary Cerrato	Call with D. Michaud re upcoming motion; discussion re Aditcorp mortgage.	0.7
1-Mar-21	Gary Cerrato	Field calls from interested parties, including [REDACTED]	0.7
1-Mar-21	Michael Litwack	Calls and emails with interested parties; review of NDAs and emails re issues with NDAs; voicemails from interested parties; providing access to dataroom; call with D. Michaud; emails re site tours.	2.5
2-Mar-21	Gary Cerrato	Call with J. Parisi re order and next steps; further review of financial information.	1.3
2-Mar-21	Josie Parisi	Review issued order; discussions with Gary re same.	0.3
2-Mar-21	Michael Litwack	Emails re NDAs and access to dataroom; providing access to dataroom; emails re site attendance; phone calls re sale process.	1.3
4-Mar-21	Gary Cerrato	Update call with M. Litwack review of marketing and sale progress; calls from interested parties.	0.5
4-Mar-21	Michael Litwack	Correspondence with interested parties re NDA and access to dataroom; emails and call re restrictions on dataroom files; correspondence re site visits; responses to interested parties with questions on taxes for purchase; Meeting with G. Cerrato; email to I. Olowolafe re books	3.6

Date	Professional	Description	Hrs.
		and records; providing access to dataroom; emails with corporate finance team re tracking schedule.	
5-Mar-21	Josie Parisi	Discussions with G. Cerrato re [REDACTED].	0.3
5-Mar-21	Michael Litwack	Correspondence with interested parties; emails re NDAs; emails re proof of available funds internationally; call with interested party re restrictions in dataroom; emails re coordinating time for site visit; review and revision to tracking schedule to capture all parties that had submitted an NDA and provided with access to dataroom; preparation of 'clean' tracking schedule; email to corporate finance team re missing information in tracking schedule.	3.3
8-Mar-21	Gary Cerrato	Review of information obtained from counsel for Kapp Infrastructure; review of banking information; conference call to review draft APA with D. Michaud.	2.5
8-Mar-21	Josie Parisi	Review APA and provide comments.	0.4
8-Mar-21	Michael Litwack	Correspondence with interested parties re dataroom; Emails re books and records; Review of books and records provided by director; Emails re letter from creditor and response; Updating schedule of interested parties and preparing file for sharing with secured.	1.7
9-Mar-21	Gary Cerrato	Attend conference call with J. Parisi and M. Litwack to discuss status of findings on where the Centurion first advance went; discuss sale process status; conference call with J. Parisi, D. Michaud and M. Litwack to provide sale process update.	2
9-Mar-21	Josie Parisi	Pre-call meeting.	0.6
9-Mar-21	Michael Litwack	Call with G. Cerrato and J. Parisi; call with counsel and Centurion; updated interested party tracking schedule; calls from interested parties; received NDAs and updated access list for dataroom; review of additional documents sent by company and emails re same; call with G. Azeff re company's records; Direction re courier; Emails with director re books and records.	3.5
9-Mar-21	Timothy Schiappa	Calls and emails with perspective offerors.	3.0
10-Mar-21	Aaron Kunik	Outreach and prospecting.	3.0



Date	Professional	Description	Hrs.
10-Mar-21	Giuseppe Corio	Calls and emails with perspective offerors.	1.0
10-Mar-21	Michael Litwack	Emails to interested parties re access to dataroom; providing access to dataroom; discussion and direction with T. Schiappa re contacting parties on revised target list; call with interested parties re questions; emails with I. Olowolafe re company information; contacting [REDACTED] via phone and email to solicit interest in sales process; meeting with G. Cerrato and J. Parisi.	7.9
10-Mar-21	Sumit Duggal	Outreach.	0.25
10-Mar-21	Sumit Duggal	Outreach.	1.75
10-Mar-21	Sumit Duggal	Calling rest of the outreach list.	0.5
10-Mar-21	Sumit Duggal	Sent out emails to parties who would like a teaser and NDA.	0.5
11-Mar-21	Giuseppe Corio	Calls and emails with perspective offerors.	1.5
11-Mar-21	Michael Litwack	Calls and emails to interested parties to solicit interest; calls with interested parties re questions; emails to all parties that had signed NDAs but had not yet accessed the dataroom; reviewing NDAs and adding parties to dataroom; direction to corporate finance team re contacting interested parties.	4.7
11-Mar-21	Sumit Duggal	Received phone call from [REDACTED], sent NDA and Teaser.	0.25
12-Mar-21	Gary Cerrato	Review of loan agreement; review of intrepid report; call with J. Parisi to discuss issues with funding; update on status of sale process.	1.0
12-Mar-21	Michael Litwack	Contacting interested parties on list provided by Centurion; calls with interested parties; review of NDA and emails re errors with NDA; emails re information request from I. Olowolafe; review of additional information provided by I. Olowolafe; conversion of files and uploaded new documents to dataroom; review of minute book and email to G. Cerrato re same; response to parties that e-mailed via MLS listing.	3.3
12-Mar-21	Sumit Duggal	Received a call from [REDACTED] from [REDACTED].	0.25
12-Mar-21	Sumit Duggal	Responding to emails and reviewing NDAs.	0.25

Date	Professional	Description	Hrs.
15-Mar-21	Gary Cerrato	Reviewing financial information to prepare examination questions.	1.2
15-Mar-21	Michael Litwack	Answering calls and emails from interested parties; reviewing NDAs and providing access to dataroom; emails re NDAs.	2.2
16-Mar-21	Gary Cerrato	Update call with M. Litwack; review of additional financial information received; [REDACTED] [REDACTED] [REDACTED] [REDACTED]	1.7
16-Mar-21	Michael Litwack	Calls and e-mails with interested parties; Reviewing NDAs and providing access to dataroom; Emails with G Cerrato; Call with G Cerrato re company records received and preparing for examination of director.	3.1
16-Mar-21	Tony Montesano	Prepare and process payment of invoices.	0.3
17-Mar-21	Michael Litwack	Preparation of schedule to compare all condo purchase agreements received with information received regarding supposed transactions and deposits; emails and calls with interested parties; review of NDAs and providing access to dataroom; email to accountant.	2.9
18-Mar-21	Michael Litwack	Review of architectural drawings provided and added information to dataroom; emails re site drawings to show cross section of parking.	0.6
19-Mar-21	Josie Parisi	Update call with M. Litwack.	0.4
19-Mar-21	Michael Litwack	Call with interested party; Call with J. Parisi; preparation of questions for examination of director, including review of information provided.	1.2
22-Mar-21	Gary Cerrato	Return creditor call; return call from interested party.	0.5
22-Mar-21	Michael Litwack	Calls and emails with interested parties; review of NDAs and updating access to dataroom.	1.1
23-Mar-21	Michael Litwack	Call with J. Parisi; calls and emails with interested parties.	0.9
24-Mar-21	Michael Litwack	Calls with interested parties; emails with interested parties; emails re offer received; emails re NDAs and access to dataroom; emails re deposit instructions.	2.0

Date	Professional	Description	Hrs.
24-Mar-21	Tony Montesano	Prepare and process payment of invoice.	0.2
25-Mar-21	Michael Litwack	Emails and call with interested parties; cheque requisition for FCA Insurance.	0.5
26-Mar-21	Josie Parisi	Discussions regarding offers received.	0.3
26-Mar-21	Michael Litwack	Calls and emails with interested parties; emails re deposits; call with G. Cerrato re deposits; updated schedule of interested parties to provide listing of dataroom access; email notice to all interested parties re wire instructions; calls and emails re submission of bids; calls and emails re extension for submission of offer; review of offer materials received; calls re deposit instructions.	3.7
29-Mar-21	Gary Cerrato	Call with M. Litwack re offers received; call with J. Parisi re offers received and examination questions for I. Olowolafe; finalize questions for examination and provide exhibits to counsel; review of summary of offers.	3.3
29-Mar-21	Josie Parisi	Review offers received.	0.4
29-Mar-21	Michael Litwack	Call with interested party; review of offers submitted and prepared schedule; creation of blackline offers; emails re corrections to offers; emails re deposits; meeting with G. Cerrato and J. Parisi; emails and calls with party re submission of offer; Correspondence re Town of Ajax complaint re site fencing.	2.5
29-Mar-21	Tony Montesano	Process payment of invoice.	0.4
30-Mar-21	Gary Cerrato	Review of offers; conference call with J. Parisi and D. Michaud to discuss offers and path forward.	1.5
30-Mar-21	Josie Parisi	Call with Robins Appleby re Mandrake offers.	1.3
30-Mar-21	Michael Litwack	Meetings with J. Parisi and G. Cerrato; Meeting with D. Michaud; Call to offering party re deposit.	1.5
31-Mar-21	Gary Cerrato	Review of offer summary; attend call [REDACTED].	0.5
31-Mar-21	Josie Parisi	Update call with Centurion re preliminary offers.	0.4
31-Mar-21	Michael Litwack	Emails re offers; call to interested party re deposit; emails and calls with interested party re submission of offer;	2.9

Date	Professional	Description	Hrs.
		emails re NDAs and providing access to dataroom; meeting with counsel and R. Buzzell; call with Town of Ajax re fencing.	
1-Apr-21	Michael Litwack	Draft of letters to parties re phase 2; emails and calls with G. Cerrato re letters; call to D. Michaud re wording for letters; emails to unsuccessful parties; calls from interested parties; call to unsuccessful party.	1.3
5-Apr-21	Gary Cerrato	Update examination questions examination; conference call with J. Jamil to prepare for examination.	2.5
5-Apr-21	Michael Litwack	Correspondence with Town of Ajax re site fence repairs; calls with offering parties; correspondence re banking instructions for return of deposits; emails re revised offer; revising dataroom access for only phase 2 parties; cheque request for marketing fees; correspondence re listing agreement for MLS and termination of listing.	1.7
6-Apr-21	Gary Cerrato	Attend examination of I. Olowolafe; call with [REDACTED].	3.5
6-Apr-21	Michael Litwack	Calls and emails re deposits; calls from interested party; emails re confirmation of acceptance to phase 2.	0.6
7-Apr-21	Michael Litwack	Correspondence with offers.	0.3
8-Apr-21	Michael Litwack	Emails re deposits; call with J. Parisi; emails and Call from counsel of creditor; call with D. Michaud; emails with bidding parties.	0.8
8-Apr-21	Michael Litwack	Drafting of report; emails [REDACTED].	2.5
9-Apr-21	Gary Cerrato	Call with M. Litwack to discuss status of offers; review of Olawolafe offer; call with D. Michaud and M. Litwack to discuss offers.	0.9
9-Apr-21	Josie Parisi	Correspondence with M. Litwack and D. Michaud [REDACTED].	0.3
9-Apr-21	Michael Litwack	Calls re new offer; call to offeror re accessing dataroom and submission of offer; calls with G. Cerrato, J. Parisi and D. Michaud; call from counsel to purchaser; emails with A. Apps.	1.6
12-Apr-21	Michael Litwack	Calls and emails with interested parties; call to offering party re deposit and final bid deadline; email to offering	1.0

Date	Professional	Description	Hrs.
		party re submission of formal offer; discussion with J. Parisi.	
13-Apr-21	Michael Litwack	Cheque requisitions.	0.2
15-Apr-21	Michael Litwack	Call from [REDACTED]; emails to bidding parties.	0.3
15-Apr-21	Tony Montesano	Prepare payment of invoice.	0.2
16-Apr-21	Gary Cerrato	Review of offers; call with M. Litwack & J. Parisi.	0.5
16-Apr-21	Josie Parisi	Call with M. Litwack related offers and his correspondence with I. Olowolafe.	0.2
16-Apr-21	Michael Litwack	Calls and emails re details for the submission of offers; calls with counsel, J. Parisi and G. Cerrato re offers; review of offer information received; emails re requirements for satisfaction of financing clause; calls to interested parties.	2.1
19-Apr-21	Gary Cerrato	Review of offers; call with J. Parisi and M. Litwack to discuss offers and next steps; email [REDACTED].	0.5
19-Apr-21	Josie Parisi	Call with M. Litwack and G. Cerrato re offers.	0.3
19-Apr-21	Michael Litwack	Calls with G. Cerrato.	0.2
20-Apr-21	Gary Cerrato	Review materials in preparation for call; attend call with Centurion and Robins Appleby.	0.5
20-Apr-21	Josie Parisi	Review materials in preparation for call; attend call with Centurion and R&A.	0.4
20-Apr-21	Michael Litwack	Update call with counsel.	0.3
21-Apr-21	Gary Cerrato	Call with J. Parisi re Olowolafe offer and issues; draft email re issues with offer; review of correspondence from Kapp Infrastructure.	1.5
21-Apr-21	Josie Parisi	Call with G. Cerrato to discuss email to I. Olowolafe regarding his offer and the various items needed; correspondence with M. Litwack re correspondence with potential purchaser.	1.1
21-Apr-21	Michael Litwack	Calls with purchaser re revised offer; correspondence with J. Parisi and G. Cerrato re revised offer;	1.3

Date	Professional	Description	Hrs.
		correspondence re return of deposit; responding to inquiries received re sale process.	
22-Apr-21	Josie Parisi	Call with Robins Appleby and Centurion to discuss various issues including next steps and undertakings; correspondence related to various offers.	0.5
22-Apr-21	Michael Litwack	Emails re sale process; call re insurance.	0.3
23-Apr-21	Gary Cerrato	Review of email from R. Fairbloom re offer from Olowolafe; call with R. Fairbloom.	0.8
23-Apr-21	Josie Parisi	Review email from [REDACTED]; correspondence with M. Litwack [REDACTED]; review documents received from R. Fairbloom and summarize for email.	0.9
23-Apr-21	Michael Litwack	Calls and emails re revised offers; cheque requisitions; call from counsel for offeror; review of offer materials and correspondence with J. Parisi and G. Cerrato	1.1
23-Apr-21	Tony Montesano	Process and prepare payment of invoice.	0.3
26-Apr-21	Michael Litwack	Call with G. Cerrato and J. Parisi; calls with counsel to offeror; emails re offer materials; call with offeror.	1.2
27-Apr-21	Josie Parisi	Call with Robins Appleby re offer to purchase property; call with Centurion re offer to purchase of property; call with M. Litwack re [REDACTED].	0.3
27-Apr-21	Michael Litwack	Voicemail and call with offeror re status; call with J. Parisi.	0.3
28-Apr-21	Michael Litwack	[REDACTED]	0.6
29-Apr-21	Gary Cerrato	Review of issues with offers; review records re information re Kapp infrastructure request for info pursuant to Construction Act.	1.0
29-Apr-21	Michael Litwack	Correspondence with offerors re decisions and return of deposits; call with D. Michaud re return of deposits; emails re deposits and banking information.	0.6
3-May-21	Michael Litwack	Calls and emails re return of deposit.	0.3
4-May-21	Michael Litwack	Calls with J. Parisi; draft of notice of rejection of offer.	0.4

Date	Professional	Description	Hrs.
5-May-21	Josie Parisi	Review various email later from debtors counsel and reply to same.	0.6
5-May-21	Michael Litwack	Emails re invoice for advertisements.	0.2
5-May-21	Tony Montesano	Process payment of invoice.	0.2
6-May-21	Michael Litwack	Correspondence re property taxes.	0.2
7-May-21	Josie Parisi	Review APA and provide comments to purchaser regarding the proposed agreement; correspondence with counsel regarding the same; discussions with G. Cerrato re APA.	0.9
10-May-21	Josie Parisi	Review APA and provide comments to counsel re same.	0.4
10-May-21	Michael Litwack	Review of fee invoice of counsel; prepared schedule of invoices from Robins Appleby; emails re legal fees; emails re property taxes.	0.8
12-May-21	Josie Parisi	Prepare for call, attend call to review changes to APA.	0.7
13-May-21	Josie Parisi	Correspondence with D. Michaud re APA.	0.3
14-May-21	Josie Parisi	Review changes to APA and discussions with D. Michaud.	0.6
14-May-21	Michael Litwack	Emails re sold units; emails re NDA; termination of dataroom access to all parties.	0.4
17-May-21	Josie Parisi	Call with Robins Appleby to discuss the outstanding issues related to the APA.	0.4
18-May-21	Josie Parisi	Call with G. Cerrato to discuss court report for approval of the sale transaction; call with D. Michaud re report and motion materials; discussion regarding termination of agreements and deposit return; review precedent provided by counsel.	1.1
18-May-21	Michael Litwack	Call with J. Parisi and G. Cerrato; began draft of second report.	1.5
19-May-21	Michael Litwack	Call and email from D. Michaud; emails re sales agreements.	0.2
20-May-21	Michael Litwack	Drafting of second report to court.	2.5

**TAB K**



Court File No.: CV-20-00652174-00CL

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

B E T W E E N:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

and

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**AFFIDAVIT OF IRVING MARKS**

I, **IRVING MARKS** of the City of Toronto, in the Province of Ontario **MAKE OATH  
AND SAY:**

1. I am a partner of the law firm of Robins Appleby LLP ("**Robins**"), the lawyers for BDO Canada Limited (the "**Receiver**"), as the Court-appointed receiver over 10268054 Canada Corp. ("**102 Corp.**") and of all the assets, undertakings and properties of the Debtor, including the real property owned by 102 Corp. known municipally as 135 Mandrake Street, Ajax, Ontario (the "**Property**") and, as such, have knowledge of the matters contained in this Affidavit.
2. Pursuant to the Order of Justice Dietrich dated January 14, 2021, the Receiver was appointed as the Receiver of the Property (the "**Receivership Order**").
3. This affidavit is made in connection with the Receiver's motion for, *inter alia*, the approval of the fees and disbursements of Robins with respect to legal services rendered as independent counsel to the Receiver in connection with these receivership proceedings from

January 21, 2021 up to May 27, 2021 (the "**Billing Period**"). Attached as **Exhibit "A"** is a record of the legal services rendered by Robins to the Receiver and disbursements incurred during this period (the "**Robins Invoices**"). To the best of my knowledge, the Robins Invoices provides a fair and accurate description of the activities undertaken and the services rendered by Robins during this period.

4. Attached as **Exhibit "B"** is a summary of the names, year of call, hourly rates, time expended by the lawyers and other professionals at Robins whose time is reflected in the dockets recorded in Exhibit "A".

5. During the Billing Period, the total fees billed by Robins were \$63,127.00 plus disbursement of \$1,707.34 and applicable taxes of \$8,381.81 for an aggregate amount of \$73,216.15.

6. I have reviewed the Robins Invoices and consider the time expended for legal fees charged to be fair and reasonable for the services performed. To the best of my knowledge, the rates charges by Robins are comparable to the rates charged for legal services of a similar nature and complexity by other medium sized firms in the Toronto market.

**SWORN** before me by videoconference by Irving Marks at the City of Toronto, in the Province of Ontario, before me on the 28<sup>th</sup> day of May, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:  
*Joseph Jamil*  
B3F30200A64B40F...

Commissioner for Taking Affidavits  
(or as may be)

**JOSEPH JAMIL**

DocuSigned by:  
*Irving Marks*  
C5CB24A4335540C...

**IRVING MARKS**

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THIS IS **EXHIBIT "A"** REFERRED TO IN  
THE AFFIDAVIT OF **IRVING MARKS**

SWORN BEFORE ME

THIS 28<sup>TH</sup> DAY OF MAY, 2021

DocuSigned by:

*Joseph Jamil*

B3E39200A51D40E...

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A Commissioner, Notary, Etc.

Joseph Jamil

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**ROBINS APPLEBY**  
BARRISTERS + SOLICITORS

175

**INVOICE**

BDO Canada Limited  
500-20 Wellington Street East  
Toronto, ON M5E 1C5

DATE: February 26, 2021  
**CLIENT No.:** 7796  
FILE No.: 2100048  
INVOICE No.: 169327  
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

<b>RE: Receivership - 10268054 Canada Corp.</b>	
	<b>FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:</b>
21-Jan-21	Email correspondnece regarding Receivership Order becoming effective;
22-Jan-21	Telephone conference between Dominique Michaud and Receiver regarding steps to commence sales process and information request to Borrower; various telephone conferences regarding Borrower's financial disclosure;
25-Jan-21	Telephone conference with Josie Parisi regarding information request;
27-Jan-21	Review information request sent to debtor; draft email from Dominique Michaud to Alfred Apps regarding information request; telephone conference with Josie Parisi regarding information request; review draft motion materials;
28-Jan-21	Email regarding registration of Receivership Order; email correspondence regarding delivery of bank records and other documents;
29-Jan-21	Prepare documents to register Court Order with the Land Registry Office regarding 135 Mandrake; email to Josie Parisi providing copy of registration;  Emails between Ladislav Kovac and Ryan Buzzell with respect to discharge documents;
04-Feb-21	Telephone conference with Josie Parisi regarding motion to compel documents;
05-Feb-21	Email to BDO regarding status of information request; review information request outstanding items; email from Dominique Michaud to Alfred Apps regarding breach of Receivership Order;
08-Feb-21	Email correspondence regarding missing information and need for motion to compel cooperation; email from Dominique Michaud to Adam Slavens regarding receivership proceeding;



	Telephone conference regarding motion to compel cooperation;
09-Feb-21	Telephone conference between Dominique Michaud and Adam Slavens regarding Tarion issues; review document production from borrower; email to BDO regarding further document request;
10-Feb-21	Review reports and draft further information detailed request;
11-Feb-21	Review draft NDA and CIM;
12-Feb-21	Email from Nathan Holloway to Dominique Michaud;
	Engage file regarding sale transaction documents and CIM review;
16-Feb-21	Engage file regarding information request;
	Email correspondence regarding motion to compel documents; draft motion materials regarding motion to compel documents;
17-Feb-21	Review precedents for expanded powers of Receiver; telephone conference regarding need for forensic investigation; telephone call from Dominique Michaud to Centurion regarding motion for further information;
	Review case law regarding authority for examination;
18-Feb-21	Review draft report; draft motion materials;
22-Feb-21	Review draft report; email correspondence regarding motion materials;
23-Feb-21	Email correspondence regarding draft report; complete motion materials;
24-Feb-21	Engage file regarding motion to compel cooperation;
	Telephone conference between Dominique Michaud and Joey Jamil regarding instructions to draft Factum for motion to compel; conduct legal research and draft Factum for motion to compel;
25-Feb-21	Conduct legal research and draft Factum for motion to compel productions; telephone conference between Dominique Michaud and Joey Jamil regarding Factum;



	Telephone conference between Dominique Michaud and Joey Jamil regarding Factum;	
26-Feb-21	Review and revise Factum; meeting between Dominique Michaud and Joey Jamil regarding motion to compel;	
	Revise Factum for motion to compel productions; Teams meeting between Dominique Michaud and Joey Jamil regarding Factum;	
27-Feb-21	Review and revise Factum;	
	Revise Factum for motion to compel productions and email correspondence between Dominique Michaud and Joey Jamil;	
28-Feb-21	Revise footnotes in Factum and revise Factum for motion to compel production;	
	<b>OUR FEE</b>	<b>\$18,506.50</b>
	<b>DISBURSEMENTS</b>	
	<i>* Indicates not subject to G.S.T./H.S.T.</i>	
	Notice of Motion/Motion Record	*320.00
	<b>Total Disbursements</b>	<b>\$320.00</b>
	<u>H.S.T. (13%)</u>	
	on \$18,506.50 Fees	2,405.85
	on \$0.00 Disbursements	0.00
	<b>Total H.S.T.</b>	<b>\$2,405.85</b>
	<b>TOTAL FEES, DISBURSEMENTS and G.S.T./H.S.T.</b>	<b><u>\$21,232.35</u></b>
	<b>ROBINS APPLEBY LLP</b>	
	Per:	
	<i>Dom Michaud</i>	
	<b>Dominique Michaud</b>	
	E. & O.E.	
	/WL	

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**Account Due When Rendered.** In accordance with section 33 of the *Solicitors Act*, interest will be charged at the rate of **3.00%** per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered.









**ROBINS APPLEBY**  
BARRISTERS + SOLICITORS

179

**INVOICE**

BDO Canada Limited  
500-20 Wellington Street East  
Toronto, ON M5E 1C5

DATE: March 31, 2021  
**CLIENT No.:** 7796  
FILE No.: 2100048  
INVOICE No.: 169687  
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

<b>RE: Receivership - 10268054 Canada Corp.</b>	
	<b>FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:</b>
01-Mar-21	Review the Factum hyperlinks and revise Factum for motion to compel productions; revise draft Order on consent;  Engage file regarding sale process and form of Asset Purchase Agreement; various telephone conferences regarding motion to compel;
02-Mar-21	Prepare for and attend motion to compel cooperation;  Review parcel register; conduct title search;
03-Mar-21	Review agreement of purchase and sale;
04-Mar-21	Review revised Asset Purchase Agreement; email from Dominique Michaud to Ron Fairbloom regarding Tarion information and Westmount; email correspondence regarding target purchaser list;
05-Mar-21	Email correspondence regarding Trion Bond Information;
08-Mar-21	Telephone conference regarding Agreement of Purchase and Sale; review changes to Agreement of Purchase and Sale;  Telephone call with Gary Cerrato; amend agreement of purchase and sale;
09-Mar-21	Telephone conference regarding sale process and examination of debtor;
10-Mar-21	Telephone conference between Dominique Michaud and Ryan Buzzell regarding sale process;





11-Mar-21	Various emails regarding potential sale;	
16-Mar-21	Telephone conference between Dominique Michaud and Gary Cerrato regarding Isaac Olowolafe;	
17-Mar-21	Various telephone conferences regarding sales process and debtor examination;	
19-Mar-21	Telephone conference regarding sales process;	
24-Mar-21	Emails with Josie Parisi with respect to deposits;	
26-Mar-21	Email correspondence regarding bid process results;	
29-Mar-21	Email correspondence regarding debtor proposal and sales process results;	
	Telephone conference amongst Gary Cerrato, Dominique Michaud and Joey Jamil regarding preparation for examination of Isaac Olowolafe; review examination questions and documents;	
	Emails with Josie Parisi with respect to deposits;	
30-Mar-21	Conference call between Dominique Michaud and Receiver regarding sales process; telephone conference between Dominique Michaud and Centurion regarding sales process;	
	Review examination questions and prepare for examination; attend examination of Isaac Olowolafe to obtain a certificate of non-attendance;	
31-Mar-21	Telephone conference between Dominique Michaud and Ryan Buzzell regarding sales process;	
	<b>OUR FEE</b>	<b>\$10,338.50</b>
	<b>DISBURSEMENTS</b>	
	<i>* Indicates not subject to G.S.T./H.S.T.</i>	
	Computer Search - Teraview	*22.90
	Computer Search - Teraview	52.00
	<b>Total Disbursements</b>	<b>\$74.90</b>
	<u>H.S.T. (13%)</u>	
	on \$10,338.50 Fees	1,344.01
	on \$52.00 Disbursements	6.76
	<b>Total H.S.T.</b>	<b>\$1,350.77</b>



**ROBINS APPLEBY**  
BARRISTERS + SOLICITORS

**TOTAL FEES, DISBURSEMENTS and G.S.T./H.S.T.**

**\$11,764.17**

**ROBINS APPLEBY LLP**

Per:

*Dom Michaud*

**Dominique Michaud**

**E. & O.E.**

/WL

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**ROBINS APPLEBY**  
BARRISTERS + SOLICITORS

183

**INVOICE**

BDO Canada Limited  
500-20 Wellington Street East  
Toronto, ON M5E 1C5

DATE: April 30, 2021  
**CLIENT No.:** 7796  
FILE No.: 2100048  
INVOICE No.: 170107  
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

<b>RE: Receivership - 10268054 Canada Corp.</b>	
	<b>FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:</b>
12-Mar-21	Telephone conference with Ryan Buzzell;
01-Apr-21	Review proposal from borrower; report to client; telephone conference between Dominique Michaud and Michael Litwack regarding notice to bids that did not qualify for Phase 2;  Prepare for examination of Isaac Olowolope;
05-Apr-21	Prepare for examination of Isaac Olowolope; telephone conference between Dominique Michaud and Joey Jamil regarding examination; Teams conference between Gary Cerrato and Joey Jamil regarding examination questions; compile compendium;  Telephone conference regarding sales process; prepare for Isaac Olowolafe's examination;
06-Apr-21	Prepare for and attend examination of Isaac Olowolope; telephone conference between Gary Cerrato and Joey Jamil debriefing the examination; telephone conference between Dominique Michaud and Joey Jamil debriefing the examination and next steps;
07-Apr-21	Engage file regarding sales process and return of deposits to unsuccessful phase 1 bidders;
09-Apr-21	Review documents provided by Fabian Otto; review offer from Dream Maker;
13-Apr-21	Review transcript from Temitope Olowolafe's examination;



16-Apr-21	Email correspondence regarding sales process;
19-Apr-21	Review sales process results report; email from Dominique Michaud to BDO and Centurion regarding sales process results;
20-Apr-21	Emails and telephone call from Ryan Buzzell regarding sales process;
21-Apr-21	Meeting between Dominique Michaud and Joey Jamil regarding undertakings from examination; engage file regarding various sale process matters;  Review letter regarding KAPP and supporting materials; email from Samuel Mosonyi to Dominique Michaud regarding same and response;  Instruct Kate Allington to prepare undertakings chart; review transcript from examination of Isaac Olowolafe;  Review examination transcript and prepare chart of undertakings;
22-Apr-21	Conference call regarding sales process;  Review transcript and revise undertakings chart of Isaac Olowolafe;
26-Apr-21	Draft response to request for information;
27-Apr-21	Telephone conference with Josie Parisi and Ryan Buzzell regarding sale approval;  Review case law regarding section 9 of the CLA;
28-Apr-21	Email correspondence regarding direction to deposit funds; telephone conference regarding purported attempted fraud on BDO;
29-Apr-21	Telephone conference between Dominique Michaud and Ryan Buzzell regarding enforcement issues; engage file regarding deposit fraud;  Telephone conference between Irving Marks and Dominique Michaud regarding return of deposit;  Draft and prepare Direction and Authorization;

**OUR FEE**
**\$16,282.00**


**DISBURSEMENTS**
*\* Indicates not subject to G.S.T./H.S.T.*

Printing	73.40
Official Examiner	1,192.50
<b>Total Disbursements</b>	<b>\$1,265.90</b>

H.S.T. (13%)

on \$16,282.00 Fees	2,116.66
on \$1,265.90 Disbursements	164.57
<b>Total H.S.T.</b>	<b>\$2,281.23</b>

**TOTAL FEES, DISBURSEMENTS and G.S.T./H.S.T.**
**\$19,829.13**

Outstanding account dated: 31-Mar-21 | Ref. No. 169687

11,764.17

**TOTAL OUTSTANDING**
**\$31,593.30**
**ROBINS APPLEBY LLP**

Per:

*Dom Michaud*
**Dominique Michaud**

E. &amp; O.E.

/WL

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**ROBINS APPLEBY**  
BARRISTERS + SOLICITORS

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**INVOICE**

BDO Canada Limited  
500-20 Wellington Street East  
Toronto, ON M5E 1C5

DATE: May 27, 2021  
**CLIENT No.:** 7796  
FILE No.: 2100048  
INVOICE No.: 170244  
H.S.T. No.: 12139 1205 RT0001

Attention: Josie Parisi

<b>RE: Receivership - 10268054 Canada Corp.</b>	
	<b>FOR ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including the following:</b>
03-May-21	Telephone conference with Ryan Buzzell; telephone call to Josie Parisi;
04-May-21	Various telephone conferences regarding credit bid;
05-May-21	Review and revise letter to Samantha Wu; email from Dominique Michaud to Samantha Wu regarding Construction Act; telephone conference between Dominique Michaud and Ryan Buzzell regarding potential defensive credit bid; telephone conference regarding return of deposit to Vaheed Jaberansari;
06-May-21	Meeting between Dominique Michaud and Sova Corp regarding distribution of deposit; telephone conference between Dominique Michaud and Centurion regarding offer to purchase property;
07-May-21	Review and revise memo regarding Sova Trading Corp.;
	Various telephone conferences regarding offer to purchase from debtor group;
10-May-21	Review Agreement of Purchase and Sale and email correspondence regarding mortgage terms; telephone conference between Dominique Michaud and Ladislav Kovac regarding revised sale terms;
	Review revised purchase agreement;
11-May-21	Telephone conference between Dominique Michaud and Ryan Buzzell regarding Centurion mortgage terms; telephone conference between Dominique Michaud and Ladislav Kovac regarding mortgage terms; review revised Agreement of Purchase and Sale and make comments to Ladislav Kovac;





12-May-21	Review and revise Asset Purchase Agreement; telephone conference with client regarding revisions to Asset Purchase Agreement;
13-May-21	Review financial and report of anticipated shortfall;
14-May-21	Review revised Agreement of Purchase and Sale; email correspondence regarding provisions to terminate Agreement of Purchase and Sale; review mortgage documents regarding impact on claim on guarantee;
17-May-21	Telephone conference between Dominique Michaud and Centurion regarding status of Asset Purchase Agreement; telephone conference with client regarding status of Asset Purchase Agreement and necessary revisions;
18-May-21	Telephone conference between Dominique Michaud and Adam Slavens regarding Tarion's position on sale approval motion; communicate with court regarding sale approval motion; telephone conference between Dominique Michaud and Ladislav Kovac regarding closing date; review deposit protocol;
19-May-21	Draft motion materials; draft deposit return protocol;
	Review Agreements of Purchase and Sale to advise on certain provisions;
20-May-21	Prepare motion materials for sale approval motion;
	Research on purchasers' interest in lands for pre-sale condominium projects that enter into receivership;
	Review Agreement of Purchase and Sale and conduct legal research on interests in land; telephone conference between Dominique Michaud and Joey Jamil regarding legal research; Teams conference between Joey Jamil and Thien Hoang regarding legal research; telephone conference between Joey Jamil and Noah Ciglen;
21-May-21	Telephone conference between Dominique Michaud and Joey Jamil regarding legal research; email correspondence between Tara Welat and Joey Jamil regarding Agreement of Purchase and Sale; conduct legal research;
	Engage file regarding security opinion and opinion in respect of purchaser's legal interest in land;
25-May-21	Conference call between Tara Welat and Joey Jamil to discuss Agreement of Purchase and Sale provisions; review Agreement of Purchase and Sale;
	Email from Dominique Michaud to Ron Fairbloom regarding deposit protocol; email regarding Notice of Motion revisions and discharge motion; telephone conference between Dominique Michaud and Dan Bank and various emails regarding security opinion;



	Conduct legal research; email correspondence between Dominique Michaud, Tara Welat and Joey Jamil;	
26-May-21	Review and revise security opinion;	
27-May-21	Email correspondence regarding deposit protocol; telephone conference with BDO regarding deposit protocol;	
	<b>OUR FEE</b>	<b>\$18,000.00</b>
	<b>DISBURSEMENTS</b>	
	<i>* Indicates not subject to G.S.T./H.S.T.</i>	
	Registration of Business Name	*16.00
	Corporate Searches	30.54
	<b>Total Disbursements</b>	<b>\$46.54</b>
	<u>H.S.T. (13%)</u>	
	on \$18,000.00 Fees	2,340.00
	on \$30.54 Disbursements	3.97
	<b>Total H.S.T.</b>	<b>\$2,343.97</b>
	<b>TOTAL FEES, DISBURSEMENTS and G.S.T./H.S.T.</b>	<b><u>\$20,390.51</u></b>
	Outstanding account dated: 31-Mar-21	Ref. No. 169687
	Outstanding account dated: 30-Apr-21	Ref. No. 170107
		11,764.17
		19,829.13
	<b>TOTAL OUTSTANDING</b>	<b><u>\$51,983.81</u></b>
	<b>ROBINS APPLEBY LLP</b>	
	Per:	
	<i>Dom Michaud</i>	
	<b>Dominique Michaud</b>	
	E. & O.E.	
	/WL	

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THIS IS **EXHIBIT "B"** REFERRED TO IN  
THE AFFIDAVIT OF **IRVING MARKS**

SWORN BEFORE ME

THIS 28<sup>TH</sup> DAY OF MAY, 2021

DocuSigned by:

*Joseph Jamil*

B3F39200A51D40F...

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A Commissioner, Notary, Etc.

Joseph Jamil

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**Fees and Disbursement Summary of Robins Appleby LLP for the period from January 21, 2021 up to May 27, 2021**

NAME	YEAR OF CALL	HOURLY RATE	TOTAL HOURS	TOTAL FEES BILLS
Irving Marks	1980	\$925.00	0.2	\$160.00
Leor Margulies	1981	\$800.00	0.4	\$370.00
Tara Welat	2008	\$525.00	0.5	\$262.50
Dominique Michaud	2009	\$600.00	70.1	\$42,060.00
Ladislav Kovac	2014	\$455.00	4.5	\$2,047.50
Joseph Jamil	2018	\$310.00	49.9	\$15,469.00
Samuel Mosonyi	2018	\$290.00	0.5	\$145.00
Noah Ciglen	2018	\$310.00	0.3	\$93.00
Nathan Holloway	2019	\$290.00	1.7	\$493.00
Kimberly Lexovsky	Law Clerk	\$300.00	0.6	\$180.00
Kate Allington	Articling Student	\$205.00	5.4	\$1,107.00
Kystra Ryan	Law Clerk	\$185.00	0.8	\$148.00
Thien Hoang	Summer Law Student	\$160.00	3.7	\$592.00
SUBTOTAL FEES:				\$63,127.00
H.S.T. @13%				\$8,206.51
<b>TOTAL FEES:</b>				<b><u>\$71,333.51</u></b>

Disbursements	\$1,707.34
H.S.T. @13%	\$175.30
<b>TOTAL DISBURSEMENTS:</b>	<b><u>\$1,882.64</u></b>
<b>TOTAL FEES, DISBURSEMENTS &amp; H.ST.</b>	<b><u>\$73,216.15</u></b>

**CENTURION MORTGAGE - and-  
CAPITAL CORPORATION**

**10268054 CANADA CORP. ET AL**

*Plaintiff*

*Defendants*

Court FileNo.:CV-20-006521714-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**AFFIDAVIT OF IRVING MARKS**

**ROBINS APPLEBY LLP**

Barristers + Solicitors  
2600 - 120 Adelaide Street West  
Toronto, ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**

Email: dmichaud@robapp.com  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**

Email: jjamil@robapp.com  
Tel: (416) 360-3783

Lawyers for the Receiver, BDO Canada Limited

# TAB 3

Court File No.: CV-20-00652174-00CL

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

<b>THE HONOURABLE MR.</b>	)	<b>TUESDAY, THE 8<sup>th</sup></b>
	)	
<b>JUSTICE DUNPHY</b>	)	<b>DAY OF JUNE, 2021</b>

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

**and**

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**APPROVAL AND VESTING ORDER**

**THIS MOTION** made by BDO Canada Limited ("**BDO**"), in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of 10268054 Canada Corp. ("**102co**") for the relief set out in the Notice of Motion dated May 31, 2021, including the approval of the sale transaction (the "**Transaction**") contemplated by an Asset Purchase Agreement between the Receiver in its capacity as Receiver of 102co and 12931109 Canada Inc. (the "**Purchaser**") made as of May 17, 2021 (the "**Sale Agreement**"), vesting in the Purchaser 102co's (the "**Debtor**") right, title, benefit and interest in the assets described in the Sale Agreement (the "**Purchased Assets**") and approving the disclaimer of all agreements of purchase and sale entered into by 102co in respect of the condominium development that was to be constructed at the property municipally known as 135 Mandrake Street, Ajax, Ontario (the "**Project**") was heard this day by videoconference as a result of the Covid-19 pandemic.

**ON READING** the Motion Record of the Receiver and the Second Report of the Receiver dated May 31, 2021 (the "**Receiver's Second Report**"), the Affidavit of Irving Marks sworn May 28, 2021 (the "**Robins Fee Affidavit**") and the Affidavit of Josie Parisi sworn May 31, 2021 (the "**BDO Fee Affidavit**") and on hearing the submissions of counsel for the Receiver and any such other counsel or individual as were present, no one appearing for any other person on the service list, although properly served as evidenced by the Affidavit of Wendy Lee sworn May ●, 2021, filed.

1. **THIS COURT ORDERS** that unless otherwise defined herein or the context otherwise requires, capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Asset Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

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 102co's right, title, benefit and interest in and to the Purchased Assets described in the Asset Purchase Agreement 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, and all purchase and sale agreements entered into by 102co for the sale of condominium dwelling units in a proposed condominium development on the Lands (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order dated January 14, 2021; (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 B** 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 C**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby terminated, expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the applicable land registry office or land titles office of a Transfer/Deed of Land or equivalent document, or of an application for registration of this Order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the Purchaser as the owner of the subject 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 B** 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 Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

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

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of 102co and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of 102co;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of 102co and shall not be void or voidable by creditors of 102co, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from Section 6(3) of the *Retail Sales Act* (Ontario).

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**Schedule A- Form of Receiver's Certificate**

Court File No. CV-20-00652174-00CL

***ONTARIO***

**SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

and

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND**

**TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Dietrich of the Ontario Superior Court of Justice (the "**Court**") dated January 14, 2021, BDO Canada Limited was appointed as receiver and manager (the "**Receiver**") of the assets, undertakings and properties of 10268054 Canada Corp. ("**102 Corp**").

B. Pursuant to an Order of the Court dated June 8, 2021, the Court approved the agreement of purchase and sale made as of May 17, 2021 (the "**Asset Purchase Agreement**") between the Receiver and 12931109 Canada Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of 102 Corp'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 the Asset Purchase

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.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, respectively; 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].

**BDO Canada Limited, in its capacity as  
Receiver, and not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

**Schedule B**

**A. Claims to be Deleted and Expunged from Title to Real Property**

1. Instrument No. DR1762699 being a Charge in favour of Centurion Mortgage Capital Corporation
2. Instrument No. DR1762700 being a Notice of Assignment of Rents in favour of Centurion Mortgage Capital Corporation
3. Instrument No. DR1762723 being a Charge in favour of Westmount Guarantee Services Inc.
4. Instrument No. DR1809576 being a Charge in favour of Garrison Hill Developments Inc. and Kimila Treasure Campbell Greaux
5. Instrument No. DR1809577 being a Notice of Assignment of Rents in favour of Garrison Hill Developments Inc. and Kimila Treasure Campbell Greaux
6. Instrument No. DR1821027 being a Charge in favour of 2086752 Ontario Inc., Saccucci, Emilio and Saccucci, Concetta
7. Instrument No. DR1821028 being a Notice of Assignment of Rents in favour of 2086752 Ontario Inc., Saccucci, Emilio and Saccucci, Concetta
8. Instrument No. DR1821038 being a Postponement by Garrison Hill Developments Inc.
9. Instrument No. DR1821039 being a Postponement by Garrison Hill Developments Inc.
10. Instrument No. DR1874554 being a Charge in favour of Diversified Capital Inc.
11. Instrument No. DR1874555 being a Restrictive Covenant
12. Instrument No. DR1905814 being an Application to Change Name
13. Instrument No. DR1905821 being a Transfer Of Charge to Diversified Capital Inc.
14. Instrument No. DR1905822 being a Notice of Assignment of Rents
15. Instrument No. DR1937533 being a Charge in favour of 5023018 Ontario Inc.
16. Instrument No. DR1969025 being a Court Order

**B. Purchase And Sale Agreements Entered Into By 102 Corp To Be Terminated**

Purchaser Name	Suite Number
George Mathew, Giften Mathew	8

George Mathew, Giften Mathew	9
Skyz Investment	16
Skyz Investment	17
Harpreet Roopra	TH3
Harpreet Roopra	TH4
2485215 Ontario Inc.	TH15
2485215 Ontario Inc.	TH28
2599055 Ontario Inc.	TH31
2712694 Ontario Inc. and Rupali Dey	TH34
2599055 Ontario Inc.	TH42

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants  
Related to the Real Property**

**(Unaffected by the Vesting Order)**

1. Instrument No. LT258311
2. Instrument No. LT258742
3. Instrument No. LT268257
4. Instrument No. LT417675
5. Instrument No. 40R20665
6. Instrument No. 40R21765
7. Instrument No. DR431407
8. Instrument No. 40R26339

**CENTURION MORTGAGE - and-  
CAPITAL CORPORATION**

**10268054 CANADA CORP. ET AL**

*Plaintiff*

*Defendants*

Court FileNo.:CV-20-006521714-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**APPROVAL AND VESTING ORDER**

**ROBINS APPLEBY LLP**

Barristers+ Solicitors  
2600 - 120 Adelaide Street West  
Toronto ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**

Email: dmichaud@robapp.com  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**

Email: jjamil@robapp.com  
Tel: (416) 360-3783

Lawyers for the Receiver, BDO Canada Limited



# TAB 4

Court File No.: CV-20-00652174-00CL

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

<b>THE HONOURABLE MR.</b>	)	<b>TUESDAY, THE 8<sup>th</sup></b>
	)	
<b>JUSTICE DUNPHY</b>	)	<b>DAY OF JUNE, 2021</b>

BETWEEN:

**CENTURION MORTGAGE CAPITAL CORPORATION**

Plaintiff

**and**

**10268054 CANADA CORP., DREAM MAKER DEVELOPMENTS INC. AND  
TEMITOPE OLOWOLAFE a.k.a. ISAAC OLOWOLAFE**

Defendants

**ORDER**

**(Disclaiming Purchase Agreements and Administrative Matters)**

**THIS MOTION** made by BDO Canada Limited ("**BDO**"), in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of 10268054 Canada Corp. ("**102co**") for the relief set out in the Notice of Motion dated May 31, 2021, including the approval of the sale transaction (the "**Transaction**") contemplated by an Asset Purchase Agreement between the Receiver in its capacity as Receiver of 102co and 12931109 Canada Inc. (the "**Purchaser**") made as of May 17, 2021 (the "**Sale Agreement**"), vesting in the Purchaser 102co's (the "**Debtor**") right, title, benefit and interest in the assets described in the Sale Agreement (the "**Purchased Assets**") and approving the disclaimer of all agreements of purchase and sale entered into by 102co in respect of the condominium development that was to be constructed at

the property municipally known as 135 Mandrake Street, Ajax, Ontario (the “**Project**”) was heard this day by videoconference as a result of the Covid-19 pandemic.

**ON READING** the Motion Record of the Receiver and the Second Report of the Receiver dated May 31, 2021 (the “**Receiver’s Second Report**”), the Affidavit of Irving Marks sworn May 28, 2021 (the “**Robins Fee Affidavit**”) and the Affidavit of Josie Parisi sworn May 31, 2021 (the “**BDO Fee Affidavit**”) and on hearing the submissions of counsel for the Receiver and any such other counsel or individual as were present, no one appearing for any other person on the service list, although properly served as evidenced by the Affidavit of Wendy Lee sworn May ●, 2021, filed.

## **SERVICE**

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 hereof.

## **PURCHASE AGREEMENTS**

2. **THIS COURT ORDERS** that upon completion and closing of the Transaction, the Receiver’s disclaimer of all agreements of purchase and sale entered into by 102co in respect of the Project be and is hereby approved.

3. **THIS COURT ORDERS** that the Deposit Protocol in respect of the return of deposits to purchasers of units in the Project attached hereto as Schedule “A” is hereby approved.

## **DISTRIBUTIONS**

4. **THIS COURT ORDERS** that the Receiver is hereby authorized to make distributions to

Centurion Mortgage Capital Corporation in accordance with paragraphs 44-54 of the Receiver's Second Report.

### **SEALING**

5. **THIS COURT ORDERS** that the Confidential Appendices to the Receiver's Second Report is hereby sealed until the closing of the Transaction or upon further order of the Court.

### **APPROVAL OF ACTIVITIES**

6. **THIS COURT ORDERS** that the activities of the Receiver as described in the Receiver's Second Report are hereby approved.

7. **THIS COURT ORDERS** that the Interim Receipts and Disbursements of the Receiver as described in the Receiver's Second Report are hereby approved.

### **APPROVAL OF RECEIVER' FEES AND EXPENSES**

8. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its legal counsel as described in the Receiver's Second Report, the BDO Fee Affidavit and the Robins Fee Affidavit are hereby approved.

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## SCHEDULE "A"

### Deposit Refund Protocol

#### 10268054 Canada Corp.

- 1) Miller Thomson LLP ("**MT LLP**") will in a reasonable time frame provide to Tarion Warranty Corporation ("**Tarion**"), the Statutory Declaration in the form attached as Schedule "A" hereto in respect of the deposits ("**Deposits**") of purchasers of units ("**Purchasers**") in the project that was to have been constructed at 135 Mandrake Street, Ajax, Ontario (the "**Project**").
- 2) BDO Canada Limited in its capacity as receiver of 10268054 Canada Corp. (the "**Receiver**") will provide to Tarion the Statutory Declaration in the form attached as Schedule "B" hereto in respect of the Project.
- 3) The Receiver will request that the principal (the "**Principal**") of 10268054 Canada Corp. provide to Tarion the Statutory Declaration in the form attached as Schedule "C" hereto. Failure by the Principal to provide such Statutory Declaration will not prevent the refund of the Deposits to the Purchasers.
- 4) MT LLP will send an email or letter to the Purchasers in the Project for which Deposits have not been refunded as at the date hereof notifying them that they may obtain a refund of their Deposits and the instructions for them to do so. These instructions will include requirements that Purchasers execute a Release and Termination Agreement, provide Photo Identification, a mailing address and a Receipt. A copy of such email or letter will be provided to Tarion, the Receiver and Westmount Guarantee Services Inc. on behalf of Aviva Insurance Company of Canada ("**Westmount**"). Any Purchasers who refuse to execute and return a Release and Termination Agreement, will be requested to at least execute and return a Written Acknowledgment Confirming the Amount of Monies Refunded and Termination of the Purchase Transaction prior to the refund of Deposits to the Purchasers. Failure by Purchasers to comply with either of the above requirements/requests will not prevent the refund of Deposits to the Purchasers; provided, that MT LLP sends the Purchaser's Deposit Monies by registered mail to the Purchaser named in the Purchase Agreement, and provides confirmation of same to Tarion, Westmount and the Receiver.
- 5) Purchasers will be asked to comply with the instructions referred to in paragraph 4 above, including returning their executed Release and Termination Agreement or a Written Acknowledgment Confirming the Amount of Monies Refunded and Termination of the Purchase Transaction, along with Photo Identification to MT LLP, which items MT LLP will forward to Westmount, if received.

- 6) From time to time, MT LLP will assemble the documents listed below (if available) in a single binder organized by unit number for each of the Deposits refunded after the date hereof at such time ("**Closing Binders**"):
- Executed Release and Termination Agreements, if obtained
  - A Copy of the First Page of the Unit Agreement of Purchase and Sale ("**APS**")
  - A Copy of any Assignment of the APS by the Purchaser
  - Copies of any Form 4
  - Written Acknowledgment executed by Purchaser Confirming the Amount of Monies Refunded and Termination of the Purchase Transaction, if obtained
  - An Updated Summary of the Deposits Released and Remaining

Closing Binders shall be delivered electronically to Tarion, the Receiver and Westmount.

- 7) After Tarion receives the most recent Closing Binder, Tarion will within ten business days of receipt, confirm by email to Westmount that the documentation is complete such that Tarion's liability to the relevant Purchaser(s) for claims in respect of their respective Deposits will be extinguished once MT LLP releases the Deposit to the Purchaser. "Deposit" means any amount that would be a valid deposit claim under the Ontario New Home Warranties Plan Act.
- 8) After Westmount receives the email from Tarion referred to in the paragraph above, MT LLP will then advise Purchasers that their deposit refund cheques (including the funds relating to the applicable Deposit) made out to the Purchaser(s) named in the APS or any permitted assignee or designee so designated in writing will be mailed to the address provided by the Purchasers or permitted assignee or permitted designee. Cheques will be made out to the name of (i) the Purchaser(s) shown on the APS; (ii) a permitted assignee(s); or (iii) a permitted designee(s).
- 9) Upon release of Deposits, MT LLP will provide in a reasonable time frame to Tarion a Statutory Declaration in the form attached as Schedule "A" in respect of such refunded deposits.
- 10) From time-to-time, and upon being satisfied that its liability to the relevant Purchasers for claims in respect of their respective Deposits has been extinguished, Tarion will provide confirmation to Westmount that the surety bond provided in respect of the Project (the "Tarion Bond") is reduced by the relevant amount on a unit-by-unit basis.
- 11) MT LLP will every month, provide Tarion, the Receiver and Westmount with a ledger of: (i) deposits paid to MT LLP (including Deposits released); and (ii) deposits paid to MT LLP (including Deposits) not released.

- 12) Once all Deposits have been returned to Purchasers and upon being satisfied that its liability to the relevant Purchasers for claims in respect of their respective Deposits has been extinguished, Tarion will correspondingly reduce the amount of the Tarion Bond; provided, however, that Tarion shall at all times be entitled to retain a sufficient portion of the Tarion Bond to cover Tarion's liabilities in respect of amounts secured by the Tarion Bond that have not been extinguished at the time of any reduction. Upon being satisfied that its liability in respect of amounts secured by the Tarion Bond has been extinguished, Tarion will return the Tarion Bond to Westmount for cancellation.

Schedule "A"

STATUTORY DECLARATION

CANADA	)	IN THE MATTER OF the proposed development
	)	(the "Project") by 10268054 Canada Corp. (the
	)	"Vendor") situated in the Town of Ajax on those
PROVINCE OF ONTARIO	)	lands and premises owned by the Vendor located at
	)	135 Mandrake Street, Ajax, Ontario
	)	
TO WIT:	)	

I, \_\_\_\_\_, of the City of \_\_\_\_\_, DO SOLEMNLY DECLARE THAT:

1. Miller Thomson LLP is the escrow agent for the Vendor and Westmount Guarantee Services Inc. pursuant to a Deposit Trust Agreement.
2. I \_\_\_\_\_, am a partner of Miller Thomson LLP, and as such have knowledge of the matters declared herein.
3. All deposits paid to Miller Thomson LLP under agreements of purchase and sale in respect of the Project units numbered \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ have been refunded to the respective purchasers of such units or their permitted assignees or permitted designees by Miller Thomson LLP.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

**DECLARED BEFORE ME** by Video Conference by \_\_\_\_\_ of the City of \_\_\_\_\_, at the City of \_\_\_\_\_, of the Province of Ontario, on the \_\_\_\_\_ day May, 2021 in accordance with O.Reg.431/20, Administering Oath or Declaration Remotely.

\_\_\_\_\_  
A Commissioner etc.

\_\_\_\_\_  
**Name:**  
**Title:**



Schedule "B"

STATUTORY DECLARATION

CANADA )  
 )  
 )  
 PROVINCE OF ONTARIO )  
 )  
 )  
 TO WIT: )

IN THE MATTER OF the proposed development  
 (the "Project") by 10268054 Canada Corp. (the  
 "Vendor") situated in the Town of Ajax on those  
 lands and premises owned by the Vendor located at  
 135 Mandrake Street, Ajax, Ontario

I, \_\_\_\_\_, of the City of \_\_\_\_\_, DO SOLEMNLY DECLARE THAT:

1. I am a \_\_\_\_\_ of BDO Canada Limited, the receiver appointed in respect of the Vendor.
2. The Vendor is not proceeding with the Project that the Vendor had proposed to construct on the lands and premises described above.
3. To the best of my knowledge and belief (which is based on information provided by the Vendor): (i) the Vendor entered into ■ (■) agreements of purchase and sale with respect to units in the Project (collectively, the "Condominium Sales Agreements"); (ii) aside from the Condominium Sales Agreements, no other agreements of purchase and sale have been entered into in respect of the Project or the lands and premises described above; and (iii) nothing has come to my attention that would suggest that sales of units in the Project were agreed to other than pursuant to the Condominium Sales Agreements.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

**DECLARED BEFORE ME** by Video Conference by \_\_\_\_\_ of the City of \_\_\_\_\_, at the City of \_\_\_\_\_, of the Province of Ontario, on the \_\_\_\_\_ day May, 2021 in accordance with O.Reg.431/20, Administering Oath or Declaration Remotely.

\_\_\_\_\_  
 A Commissioner etc.

\_\_\_\_\_  
**Name:**  
**Title:**

Schedule "C"

STATUTORY DECLARATION

CANADA ) IN THE MATTER OF the proposed development  
 ) (the "Project") by 10268054 Canada Corp. (the  
 ) "Vendor") situated in the Town of Ajax on those  
 PROVINCE OF ONTARIO ) lands and premises owned by the Vendor located at  
 ) 135 Mandrake Street, Ajax, Ontario  
 )  
 TO WIT: )

I, \_\_\_\_\_, of the City of \_\_\_\_\_, DO SOLEMNLY DECLARE THAT:

1. I am \_\_\_\_\_ of the Vendor, and as such have knowledge of the matters hereinafter declared.
2. The Vendor is not proceedings with the Project that the Vendor had proposed to construct on the lands and premises described above.
3. The Vendor provided all deposits that it received in respect of the sale of units in the project to Miller Thomson LLP, the escrow agent for the Vendor.
4. The Vendor entered into only ■(■) agreements of purchase and sale with respect to units in the Project and did not enter into any other agreements of purchase and sale for units in the Project.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

**DECLARED BEFORE ME** by Video Conference by \_\_\_\_\_ of the City of \_\_\_\_\_, at the City of \_\_\_\_\_, of the Province of Ontario, on the \_\_\_\_\_ day May, 2021 in accordance with O.Reg.431/20, Administering Oath or Declaration Remotely.

\_\_\_\_\_  
A Commissioner etc.

\_\_\_\_\_  
**Name:**  
**Title:**

**CENTURION MORTGAGE - and-  
CAPITAL CORPORATION**

**10268054 CANADA CORP. ET AL**

*Plaintiff*

*Defendants*

Court FileNo.:CV-20-006521714-00CL

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

PROCEEDING COMMENCED AT TORONTO

**ORDER  
(Disclaiming Purchase Agreements and  
Administrative Matters)**

**ROBINS APPLEBY LLP**

Barristers+ Solicitors  
2600 - 120 Adelaide Street West  
Toronto ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**

Email: dmichaud@robapp.com  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**

Email: jjamil@robapp.com  
Tel: (416) 360-3783

Lawyers for the Receiver, BDO Canada Limited

**CENTURION MORTGAGE - and-  
CAPITAL CORPORATION**

**10268054 CANADA CORP. ET AL**

*Plaintiff*

*Defendants*

Court File No.: CV-20-00652174-00CL

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

**PROCEEDING COMMENCED AT TORONTO**

**MOTION RECORD OF THE RECEIVER,  
BDO CANADA LIMITED**

**ROBINS APPLEBY LLP**

Barristers+ Solicitors  
2600 - 120 Adelaide Street West  
Toronto ON M5H 1T1

**Dominique Michaud LSO No.: 56871V**

Email: dmichaud@robapp.com  
Tel: (416) 360-3795

**Joseph Jamil LSO No.: 74614L**

Email: jjamil@robapp.com  
Tel: (416) 360-3783  
Fax: (416) 868-0306

Lawyers for the Receiver, BDO Canada Limited