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COURT FILE NUMBER 1801 04745

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF HILLSBORO VENTURES INC.

RESPONDENT CEANA DEVELOPMENT SUNRIDGE INC.

DOCUMENT AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
 Field LLP  
 400, 444 – 7 Avenue S.W.  
 Calgary AB T2P 0X8  
 Lawyer: Douglas S. Nishimura  
 Phone Number: (403) 260-8548  
 Fax Number: (403) 264-7084  
 File No. 69701-1

COM  
Dec. 10, 2020  
Justice Eidsvik

**AFFIDAVIT OF JASBIR S. MUNDI  
(Sworn NOVEMBER 23, 2020)**

I, JASBIR S. MUNDI, of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am a Director of 1695411 Alberta Ltd. ("**169**") and as such, I have personal knowledge of the facts deposed to herein, except where stated to be upon information and belief, in which case I believe the same to be true.
2. On or about April 27, 2016, 169 entered into a purchase and sale agreement with Ceana Development Sunridge Inc. ("**Ceana**") for the purchase of a commercial condominium unit (the "**Unit**") located at 2255 – 32 Street N.E., Calgary, Alberta, (the "**PSA**"). Attached hereto and marked as **Exhibit "A"**, is a copy of the PSA. The PSA states that all funds paid to the Vendor "shall be held in trust by the Vendor's solicitor."
3. The PSA was subsequently amended on May 6, 2019, to change the possession date. A copy of the amendment agreement is attached hereto and marked as **Exhibit "B"**.

4. Pursuant to the PSA, a total of \$113,000 in deposits was paid towards the purchase of the unit under the PSA. A copy of the signed deposit receipt from Ceana confirming is attached hereto as part of Exhibit A (pages 20 to 22).
5. Despite the granting of several extensions by the Purchaser, the Unit was not completed as required under the PSA.
6. My understanding is that all deposit funds should have been held in a separate trust account. However, to the extent they were used by Ceana, they could only have been used for development of the project.
7. I make this Affidavit in opposition of the dispersal of deposit funds until such time as a determination is made with respect to all deposit funds and, in particular, the funds remitted by 169. It is anticipated that an Application will be made for a declaration that the condominium project is subject to a resulting or constructive trust in favor of the Purchasers for payment of the deposit funds which are or should have been held in trust to the Purchasers.

SWORN BEFORE ME at the City of Calgary, )  
 in the Province of Alberta, this 23<sup>rd</sup> day of )  
 November, 2020. )

\_\_\_\_\_ )  
 A Commissioner for Oaths in and for Alberta

\_\_\_\_\_  
**JASBIR S. MUNDI**

**Douglas S. Nishimura**  
 Barrister & Solicitor

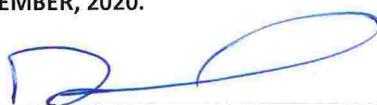
THE PURCHASER MAY, WITHOUT INCURRING ANY LIABILITY FOR DOING SO, RESCIND THIS AGREEMENT WITHIN 10 DAYS OF ITS EXECUTION BY THE PARTIES TO IT, UNLESS ALL OF THE DOCUMENTS REQUIRED TO BE DELIVERED TO THE PURCHASER, UNDER SECTION 12 OF THE *CONDOMINIUM PROPERTY ACT*, R.S.A. 2000, c. C-22, HAVE BEEN DELIVERED TO THE PURCHASER NOT LESS THAN 10 DAYS PRIOR TO THE EXECUTION OF THE AGREEMENT BY THE PARTIES TO IT.

THIS IS EXHIBIT "A" REFERRED TO IN  
THE AFFIDAVIT OF JASBIR MUNDI.

PURCHASE CONTRACT

SWORN BEFORE ME THIS 23 DAY OF  
NOVEMBER, 2020.

SUNRIDGE JUNCTION  
2255 – 32<sup>nd</sup> Street NE, Calgary, Alberta

 1695411 Alberta Ltd.

A Commissioner for Oaths in and for Alberta

Douglas S. Nishimura  
Barrister & Solicitor

(the "Purchaser")

hereby offer and upon acceptance by CEANA DEVELOPMENT SUNRIDGE INC. (the "Vendor") agree to purchase from the Vendor, in the manner and on the terms and conditions set forth and for the price hereinafter mentioned:

Condominium Plan: TBV  
Legal Unit No: TBU (the "Unit")  
Unit Factor: TBV undivided one ten thousandth shares in the common property (the "Unit Factor")  
municipal address: Unit CRV8, 2255 – 32<sup>nd</sup> Street NE 1675 Sect A, Calgary, Alberta  
Project known as: Sunridge Junction (the "Project")

and title to the Unit shall transfer to the Purchaser upon closing of the transactions herein contemplated (subject to the provisions of this Agreement), provided however, that the parties acknowledge and agree that (i) the Unit number and/or municipal address may be subject to change; and (ii) the Unit Factor has been determined on the basis of anticipated unit maintenance costs and unit areas and may be subject to change upon final approval of plans by the City of Calgary.

The total purchase price to be paid by the Purchaser to the Vendor for the Unit (the "Purchase Price") shall be:

\$ 753750.- Price of Land and Unit without GST  
\$ 37687.50 Plus federal goods and services tax ("GST") at 5%  
\$ 791437.50 TOTAL PURCHASE PRICE

On or before the Confirmed Occupancy Date, the Purchaser shall provide the Vendor with a certificate from a senior officer of the Purchaser (or a statutory declaration from the Purchaser if the Purchaser is not a corporation) stating that the Purchaser is registered with the Canada Revenue Agency for the purposes of GST and setting out its GST registration number. The Purchaser shall in such certificate or statutory declaration as the case may be, and does hereby, undertake to pay all applicable GST directly to the



a separate contract for the said modifications and/or extras with the Vendor, and the Purchaser will pay for any such modifications and/or extras plus any applicable Goods and Services Tax on or before the Confirmed Occupancy Date, in addition to and as an adjustment to the Purchase Price. It is acknowledged by the Purchaser that all material supplied and labour performed by suppliers and workmen employed by the Purchaser will not be guaranteed or warranted by the Vendor in any manner whatsoever. Under no circumstances will the Purchaser be permitted to perform work on or supply materials to the Unit without the Vendor's consent in writing, which consent may be arbitrarily withheld in the Vendor's sole discretion. **Vendor and Purchaser agree that the Addendum for Extras and Upgrades, if any, attached hereto forms part of the within Purchase Contract and the Purchase Price shall be adjusted to include the items, and the extras (if any), designated on the same.**

3. "Tentative Occupancy Date" means Jan 15 / 2017 or such later date as specified by the Vendor by notice in writing to the Purchaser of the availability of the Unit for possession or occupancy by the Purchaser, at which time title to the Unit, if available for conveyance, shall be transferred to the Purchaser; provided that if title is not then available for transfer to the Purchaser, the Vendor shall receive and retain all monies received from the Purchaser in trust pursuant to s. 14 of the Act, and closing for the purposes of conveyance of title shall occur within a reasonable period of time following the date on which a registerable transfer of title is delivered to the Purchaser's solicitor. The Vendor does not guarantee the completion or possession of the Unit on this date in the event delays occur for which the Vendor may not be responsible, or caused by unfavourable weather, strikes, fires, shortage of labour or materials, acts of God or any other causes beyond the control of the Vendor. The Vendor may extend or accelerate the Tentative Occupancy Date for a reasonable period and the Vendor shall provide a notice in writing to the Purchaser 30 days in advance, advising that on a date to be specified in the notice (the "Confirmed Occupancy Date"), the Unit will be ready for possession and that an inspection shall take place on the date specified. Vacant possession of the Unit shall be given at noon on the Confirmed Occupancy Date, whether such date is earlier or later than the Tentative Occupancy Date, and the Purchaser shall be required to take possession of the Unit on the Confirmed Occupancy date, subject to the terms hereof being complied with. If the Vendor shall be unable to substantially complete the Unit for occupancy within a reasonable period of time after the designated Confirmed Occupancy Date the Vendor may, at its option, return any deposit to the Purchaser (without interest) whereupon this Agreement shall terminate, the parties will be released from their obligations in this Agreement and the Purchaser shall have no recourse whatsoever of any nature or kind against the Vendor. Alternatively, if the Vendor is prevented from substantially completing the Unit for occupancy by the Confirmed Occupancy Date due to events of *force majeure*, including but not limited to acts of god, strikes, walkouts, shortages of labour or materials, inclement weather or any other matter or event beyond the Vendor's control, the Confirmed Occupancy Date may, at the sole option of the Vendor, be postponed to such date as is reasonably required by the Vendor (in its sole and absolute discretion) to substantially complete the Unit in which case the Vendor will provide notice as specified above of the revised Confirmed Occupancy Date. The Vendor shall not be liable for any damages whatsoever of any nature or kind due to a delay in the completion of the Unit or in the registration of the Condominium Plan(s).
4. All taxes, interest and other adjustments shall be adjusted between the Vendor and the Purchaser as at the Confirmed Occupancy Date and the Purchaser shall have possession of the Unit on the Confirmed Occupancy Date PROVIDED the Purchaser has paid all the amounts owing to the Vendor hereunder. If the adjustments cannot be accurately determined at the Confirmed Occupancy Date the Vendor shall have the right to estimate the adjustments to be made and closing shall take place in accordance with the estimated adjustments and there shall be an

adjustment at such later date when all of the items to be adjusted can be accurately determined.

Adjustments hereunder shall take into account all prepaid and accrued expenses relating to the Unit which, without limiting the generality of the foregoing, include the following:

- (a) assessments prepaid or owing for common expenses and administrative expenses pursuant to s. 39 of the Act;
  - (b) realty taxes, school taxes and local improvement charges (the "Taxes"), including supplementary assessments, on the Unit, and if Taxes are owing for the period when the Project was assessed and taxed as one project, not as individual Units, then the adjustment of Taxes shall be calculated attributing the portion of the Taxes owing on the total project by applying the Unit Factor to such total expenses;
  - (c) any other prepaid or current expenses for utilities such as gas, electricity or other utilities not included in the common expenses which shall be adjusted by attributing to the Unit its Unit Factor share;
  - (d) any unpaid extras pursuant to paragraph 2 above; and
  - (e) the Unit's share of insurance cost carried by the Vendor determined by the Unit Factor.
5. Notwithstanding anything to the contrary herein contained, the Vendor is NOT required to pay Common Expenses (as hereinafter defined) for the Unit for any period prior to the Confirmed Occupancy Date (as may be amended from time to time), therefore, no adjustment shall be made on Closing for Common Expenses and the Purchaser shall be responsible to pay applicable Common Expenses from and after the Confirmed Occupancy Date.
6. If, on the Confirmed Occupancy Date, the title to the Unit is not available for transfer to the Purchaser, the Purchaser shall take possession of the Unit upon the Purchaser executing and delivering to the Vendor, the Vendor's form of Interim Occupancy Agreement and upon paying the balance due on closing to the Vendor's solicitor to be held in trust until such time as title issues into the name of the Purchaser. If the Purchaser is obtaining new mortgage financing on the Unit, the Purchaser may occupy the Unit upon paying the difference between the balance due on closing and the anticipated new net mortgage proceeds to the Vendor's solicitor to be held in trust until such time as title issues into the name of the Purchaser. Terms and conditions of the said Interim Occupancy Agreement include:
- (a) the Purchaser shall occupy the Unit as the licensee of the Vendor at an occupancy/rental fee equal to the interest earned (if any) on the portion of the cash to close held in trust from the Confirmed Occupancy Date to the date funds are released to the Vendor plus the monthly interest cost that would have been payable to the Mortgagee for the mortgage (if any) the Purchaser is placing on the Unit, payable in advance on the first day of each and every month during the Interim Occupancy Period, with such fee to be pro-rated for any partial month of occupancy. The Purchaser will provide the approved mortgage documentation to allow for calculation of the occupancy fee. Any occupancy/rental fees paid by the Purchaser herein shall not be held in trust by the Vendor and shall not be credited towards the Purchase Price;
  - (b) the Purchaser shall pay monthly to the Vendor for its sole account 1/12<sup>th</sup> of the estimated annual assessments, contribution or levies for managing and maintaining the Unit and the common property of the Project and maintaining a contingency reserve fund in

proportion to his Unit Factor which would, if the Condominium Plan(s) had been registered, be considered condominium fees and assessments (the "Common Expenses");

- (c) the Purchaser shall pay to the applicable authority, or to the Vendor, such amounts as may be charged, levied or assigned to the Unit for all utilities including sewer, gas, telephone, water, power and cable television;
- (d) the Purchaser shall and does hereby indemnify and save harmless the Vendor of, from and against all suits, claims, actions, losses, costs, expenses and damages of any kind to which the Vendor shall become liable or a party by reason of the negligent use, misuse, or occupation of the Unit or the common property by the Purchaser, his family, invitees, licensees, agents or any person for whom the Purchaser is responsible in law;
- (e) the Purchaser's right to possession of the Unit on Closing shall be subject to the Vendor's right to enter and occupy the Unit for the sole purpose of completing construction of either or both the common property and the Unit;
- (f) the Purchaser shall be responsible for the cost of repairing any damage that may occur to the Unit as a result of the occupancy of same by the Purchaser;
- (g) the Purchaser acknowledges that the Purchaser's use and license of the Unit and the common areas of the project shall be subject to the Rules & Regulations set out in the By-laws (proposed or registered, as the case may be) of the Condominium Corporation;
- (h) the Purchaser shall keep and maintain the Unit in a state of good and substantial repair and in a neat and clean condition throughout the Interim Occupancy Period, normal wear and tear excepted;
- (i) the Purchaser shall immediately vacate the Unit and remove therefrom all of the Purchaser's goods and chattels upon notice to that effect from the Vendor if, for whatever reason, the transaction of sale and purchase of the Unit is not completed; and
- (j) the Purchaser shall not sub-let the Unit nor permit the use or occupation of the Unit by others without the written consent of the Vendor.

7. With regard to construction:

- (a) The Vendor agrees that all construction is to be done in a proper, diligent and workmanlike manner, and shall comply with the Alberta Building Code Standards in effect as of the date of signing this Agreement.
- (b) The Purchaser covenants to take possession of the Unit on the Confirmed Occupancy Date provided the interior thereof is substantially completed notwithstanding that all exterior work on the Unit, common areas, Project or building and the landscaping, common light standards or poles, any perimeter fencing and the internal roadway system may not at such time be fully completed. The Vendor agrees to complete any outstanding work related to the Unit and the common areas within a reasonable time (taking into account seasonal factors) after the Confirmed Occupancy Date.
- (c) At all times during the construction of the Unit, the Vendor agrees to protect and save harmless the Purchaser from liability arising from any claim or claims of persons

performing services or furnishing materials to the Vendor for use in the performance of work under this agreement and to pay all such claims so as to prevent the registration of any lien against the lands.

- (d) Unit sizes described in the disclosure documents, including suite floor plans, are to the outside of the exterior face of exterior walls, the corridor face of corridor walls and to the centre of party walls. The surveyor may use a different method of measurement for the Condominium Plan. Municipal tax authorities may also use a different method of determining the size of the Unit. The estimated Unit Factors and square footage of the purchased Unit may change slightly upon actual measurement by the surveyor or upon completion of construction.
- (e) The Vendor shall be at liberty, without notice to the Purchaser, to modify specifications and materials in construction to permit the timely completion of the Project and/or the Unit (including where the materials are no longer available at a reasonable cost in the opinion of the Vendor) or to comply with municipal requirements, provided that the replacement materials are of equal or better quality and that such modifications will not materially change the finishes or materially reduce the size of the Unit, all in the opinion of the Vendor. Either the exterior or interior of any building or unit in the Project may be varied from any show suite or promotional materials, provided that any such variations are within the applicable municipal authority approvals for the Project and the Purchaser shall not be entitled to any compensation for such variances.
- (f) The Vendor may be required to alter the plans or specifications of the Unit to include or modify items as required to comply with any development permit or building permit, Alberta Building Code, or which are required in the sole discretion of the Vendor for the benefit of the Project or the common property, such as (by way of example only and without limitation) changing the location and size of the parking or Storage, or the addition or movement of piping, valves, water metres or other like items and same shall not give the Purchaser reason to terminate this Agreement nor entitle the Purchaser to any compensation.
- (g) In the event that the Vendor intends to develop other phases or buildings within the Project, the Vendor shall have sole and complete discretion over the design, construction and completion of such other phases or buildings and the Purchaser agrees not to object or interfere in any way with the approvals for construction of such other development.
- (h) The Purchaser expressly acknowledges that the Vendor is in the process of applying for the required Development Permit(s) and Building Permit(s) for the Project. If the Vendor shall be unable to obtain the required Development Permit(s) and/or Building Permit(s), in form satisfactory to the Vendor in its sole and absolute discretion, within a reasonable period of time, in the sole and absolute discretion of the Vendor, from the date of this Agreement then the Vendor may, at its option, return any deposit to the Purchaser (without interest) whereupon this Agreement shall terminate, the parties will be released from their obligations in this Agreement and the Purchaser shall have no recourse whatsoever of any nature or kind against the Vendor.

8. With regard to conveyancing:

- (a) Subject to Section 6 above, the transfer of land shall be prepared at the expense of the Vendor, and executed and delivered to the solicitor for the Purchaser within a reasonable time prior to Confirmed Occupancy Date, together with such other documents as are

customary for similar transactions in the Province of Alberta (in the sole opinion of the Vendor's solicitor) or required to give effect to this Agreement (in the sole opinion of the Vendor's solicitor) and upon reasonable trust conditions (in the sole opinion of the Vendor's solicitor) to allow for the completion of the transaction contemplated hereunder, provided however, that if title to the Unit is not available for conveyance on the Confirmed Occupancy Date then the transfer of land shall be delivered to the solicitor for the Purchaser once available and the Purchaser shall be given a reasonable period of time (in the sole opinion of the Vendor's solicitor) to obtain registration of same. The Purchaser shall pay the expense of registration of the transfer and the preparation and registration of the New Mortgage, if required;

- (b) Mortgage application and inspection fees, mortgage appraisal fees and mortgage Insurance Premiums (if any) shall, in any event, be the sole responsibility of the Purchaser;
- (c) The Purchaser acknowledges and agrees that the Vendor shall not be responsible for or held liable for:
  - (i) any changes in or loss of interest rate on any mortgage (new or otherwise) which the Purchaser may obtain from time to time;
  - (ii) any change in or loss of commitment by any lender to provide to the Purchaser mortgage financing; or
  - (iii) any change in or loss of the Purchaser's ability to qualify for any mortgage financing;

for whatever reason or however caused including, without limitation, a delay in Closing.

- (d) The taking of possession of the Unit by the Purchaser shall conclusively establish that the Unit has been completed in accordance with this Agreement, except as to such deficiencies as are properly noted on the Certificate of Possession.
- (e) Following the receipt of the documents described in Section 8(a) above, the Purchaser shall cause its solicitor to arrange for completion of any necessary documents and registration of the transfer of land and Mortgage, if any (in that order and without intervening registrations) so as to obtain registration of same on or before the Confirmed Occupancy Date (or such other date as specified by the Vendor's solicitor in the event that title for the Unit is not available on the Confirmed Occupancy Date).
- (f) Subject to Section 6 above, the Purchaser shall pay the entire balance of funds owing hereunder to the Vendor on or before noon on the Confirmed Occupancy Date by way of bank draft or the Purchaser's solicitor's trust cheque. The Purchaser shall not be entitled to deduct any holdbacks, set-offs, lien holdbacks or any other amounts from the amounts owed.
- (g) If, at the Confirmed Occupancy Date, there remains unadvanced a portion of the funds to be advanced under the mortgage, the Purchaser shall execute such documentation as required by the Vendor to secure payment to the Vendor of such unadvanced funds; provided that if the funds are not advanced due to the fault or circumstances of the Purchaser, the Vendor shall be at liberty to refuse to close the transaction for reason of default on the part of the Purchaser.

9. The Vendor shall have the right from time to time to modify the Project and the Disclosure Documents hereto in accordance with requirements of any regulatory body or mortgagee or as required by the amendment of the Act or the Regulations or in order to accommodate the requirements of other Unit purchasers or to accommodate requests by the Condominium Corporation. Changes to the actual size and layout of the Units may affect the Unit Factors of the Units and therefore the condominium contributions. The Vendor shall have the right in its sole discretion to sell any unit in the Project as it sees fit including the right to change the pricing structure of units within the Project, the right to sell more than one unit to a single purchaser, the right to sell units to a purchaser for any purpose in the Vendor's sole discretion, and the right to retain units as an owner (in which case the Vendor will be subject to all requirements of a unit owner with respect to the units so retained). The Vendor may also modify the location of roadways, walkways, fences, and parking areas and the interior finishing of the common property and exterior finishing of the buildings and the landscaping provided that no modification or decision made in accordance with this paragraph shall:

- (a) increase the cost of the Unit;
- (b) reduce the common elements available to the Purchaser to a substantial degree; or
- (c) impair or modify any of the warranties or other obligations of the Vendor;

claim against the Vendor whatsoever, provided further that any such changes which might give the Purchaser the right at law to rescind the Agreement or claim damages shall only allow the Purchaser to rescind the Agreement and receive a refund of the deposit or other monies paid by the Purchaser (except occupancy compensation or rent) without interest and the Purchaser will have no claim for consequential or any damages.

10. The Vendor may extend, modify or re-divide the condominium plan(s) for the Project to provide for smaller or larger units and the Purchaser will agree to resolutions of the condominium corporation approving same, or for application to the Court for that purpose or any other steps or proceedings that the Vendor may require, in its absolute discretion.

11. The Vendor represents and warrants to the Purchaser that:

- (a) It is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (b) It is not the agent or trustee for anyone with an interest in this property who is a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

12. The Purchaser represents, warrants, covenants, acknowledges and agrees that:

- (a) the Purchaser's use and occupation of the Unit shall be subject to the By-laws and such other rules and regulations enacted by the Condominium Corporation from time to time;
- (b) the Purchaser shall be responsible for assessments made from time to time by the Condominium Corporation in respect of the operation and maintenance of the common and managed property;
- (c) the Unit and the Condominium Corporation are subject to the provisions of the Act;

- (d) the Purchaser shall, upon completion of the purchase of the Unit, be subject to a Management Agreement;
  - (e) the Purchaser has received from the Vendor the documents referred to in clause 29 hereof;
  - (f) the Purchaser shall take title to the Unit in compliance with the names on the Purchase Contract and in such names as shall be designated to the Vendor's solicitor on or before Closing;
  - (g) the Purchaser hereby authorizes its solicitor to act as its agent for the purpose of receiving from the Vendor or its solicitor all documents and the receipt thereof by the Purchaser's solicitor shall be a good discharge therefor;
  - (h) in the event that the Unit contains any valves, water metres or similar items which are for the benefit of other units in the Project or the common property, the Vendor and/or the condominium corporation may require routine access to the Unit for tests required by governmental bodies having jurisdiction (as an example only and without limitation, for cross-connection tests) and the Purchaser shall provide such access when required and such obligation shall not impact the Purchase Price;
  - (i) Until such time as construction of the Project is fully completed in the sole discretion of the Vendor, the Purchaser shall allow the Vendor access to the Unit as and when required by the Vendor upon reasonable notice;
  - (j) Any and all signage to be utilized by the Purchaser will be subject to approval by the Vendor and/or the condominium board in accordance with the condominium bylaws; and
  - (k) all covenants, warranties and representations of the Purchaser herein are for the sole benefit of the Vendor and shall survive the Closing and any registration of all transfers of land and bills of sale hereunder.
13. All money owing to the Vendor shall be paid to the Vendor or the Vendor's solicitor on or before the date provided therefore. If the Vendor agrees to accept monies after the date provided therefore, the Purchaser shall pay to the Vendor interest at **EIGHTEEN (18%) PERCENT** per annum on any monies owing to the Vendor at the due date, from the due date until that money has been paid and is releasable to the Vendor. The foregoing shall not prejudice or inhibit any other right or privilege the Vendor may have at law or equity on the default of the Purchaser to make timely payment of monies due.
14. The Purchaser agrees to meet a representative of the Vendor prior to or on the Confirmed Occupancy Date to inspect the Unit and complete and sign the inspection/possession sheet which shall conclusively establish that construction of the Unit has been completed to the satisfaction of the Purchaser (save for the deficiencies noted on the inspection/possession certificate) and possession of the Unit is accepted by the Purchaser. Under no circumstances will possession be given to the Purchaser unless and until the inspection/possession certificate is completed, signed and delivered by the Purchaser to the Vendor. The Purchaser agrees that the Unit inspection is to be conducted jointly with the Purchaser (no other person or persons in replacement of or in addition to the Purchaser to attend such inspection unless agreed to in writing by the Vendor) and the field superintendent or other duly authorized representative of the Vendor. If the Purchaser does not attend the inspection pursuant to the Inspection Notice or refuses to sign the inspection/possession sheet, the Vendor may at its option, be appointed attorney for the Purchaser

and execute the inspection/possession sheet and any other documents required by the Vendor with respect to inspection and possession on behalf of the Purchaser and in the Purchaser's name.

15. Notwithstanding anything contained in this Agreement to the contrary, it is understood and agreed by the parties hereto that in the event that construction of the Unit is not completed on or before the Confirmed Occupancy Date, for any reason except for the Vendor's wilful neglect, or in the event the Purchaser cannot take possession of the Property on the Confirmed Occupancy Date by reason of any fire damage or other hazards or damages whatsoever occasioned thereto, the Vendor shall not be responsible or liable for reimbursing the Purchaser for any costs, expenses or damages suffered or incurred by the Purchaser as a result of such delay or damage and specifically, shall not be responsible for any costs and expenses incurred by the Purchaser in obtaining alternate accommodation pending the completion of construction of the Unit or the rectification of the damage, nor for any costs incurred in having to store or move the Purchaser's furniture or other belongings pending such completion or rectification work, nor for any additional mortgage financing costs due to a subsequent increase in the interest rate nor for any damages relating to the expiry of any mortgage commitment.
16. The Purchaser expressly acknowledges and agrees that the Purchase Price is payable to the Vendor without qualification or condition, and no conditions of trust or holdback, including without limitation, any deficiency, Builders' Lien or completion holdback shall be permitted in connection with the payment of funds in the closing and completion of the sale under this Agreement, unless otherwise expressly agreed to by the Vendor in writing.
17. This Agreement shall not be sold or assigned by the Purchaser before final closing without the prior written consent of the Vendor, which consent may be arbitrarily withheld. If the Purchaser desires to sell the Unit after taking possession, the Purchaser shall not display any "For Sale" signs on the Unit, common areas, buildings or Project and grants to the Vendor or the Condominium Corporation the right to remove such signs in the event the Purchaser is in breach of this provision. Should the Purchaser so sell or transfer the Unit or assign this Agreement without the Vendor's written consent, prior to Closing, such act shall constitute a default of the Purchaser under this Agreement.
18. The Purchaser acknowledges that registration of a Caveat or other instrument respecting this Agreement may affect transfers or mortgage advances on other condominium units and the Purchaser therefore covenants that he will not register such Caveat or instrument against the title to all or any portion of the land comprising the Unit, common areas or other units. In the event the Purchaser breaches the covenant contained herein, the Purchaser shall pay all damages, costs and expenses incurred or suffered by the Vendor as a result of such breach, including legal costs on a solicitor and his own client basis.
19. The Purchaser is aware that the Vendor has the right to arrange for a professional manager for the Project with such manager as the Vendor, in its sole discretion, selects, or the Vendor may elect to manage the Project itself. The Purchaser acknowledges that management costs for the Project, whether in respect of a third party manager or the Vendor itself, shall be included in common expenses.
20. The Unit shall be at the risk of the Vendor until title is conveyed to the Purchaser and in the event of substantial or total loss or damage to the Unit (as determined by the Vendor in its sole discretion) occurring before such time by reason of fire, lightning, tempest, earthquake, flood, riot, civil commotion, insurrection or other acts of God, either the Vendor or the Purchaser may, at his option, cancel this Agreement within thirty (30) days of the date of the said loss or damage and thereupon the Purchaser shall be entitled to the return of any monies paid as deposits

hereunder without interest and the Vendor shall have no further liability hereunder. In the event the damage is not substantial or total (as determined by the Vendor in its sole discretion), the Vendor agrees to restore and complete the Unit and interim occupancy rental otherwise payable by the Purchaser shall, to the extent the Purchaser's occupation of the Unit is interrupted, be abated. All proceeds of any insurance policies in force shall belong to the Vendor and the Purchaser shall have no interest therein or thereto. The Unit shall be at the risk of the Purchaser after title is conveyed to the Purchaser.

21. The Unit is sold subject to the *Condominium Property Act*, R.S.A. 2000, c. C-22 as amended and:
- (a) reservations and exceptions appearing on the existing certificate of title for the lands and/or the Unit;
  - (b) any Development Requirements which shall include all subdivision or other agreements, covenants and restrictions, easements, licenses and rights required or imposed by the Vendor, Developer, Municipality or other affecting authorities including, among others, utilities and transit authorities;
  - (c) any registered caveats, charges, restrictive covenants, encumbrances, rights-of-way, encroachment agreements, easements and any other instruments in favour of the City of Calgary, utility companies, public authorities or any other parties arising by virtue or in connection with the approval or construction of the Condominium Project, the registration of the Condominium Plan, the Construction Mortgage or other Vendor financing registered or to be registered against title to the Lands (and to be subsequently discharged as provided in this agreement);
  - (d) the implied easements under and by virtue of the *Condominium Property Act*, as amended; and
  - (e) all easements and restrictions contained in the Proposed By-Laws.

The Purchaser shall accept title subject to and comply with, all Development Requirements, provided there does not exist default under any of the foregoing and provided that the Purchaser's use of the Unit for residential purposes is permitted. The Purchaser agrees that the Vendor shall not be obligated on closing, or thereafter, to obtain or register releases of any Development Requirements provided the same have been complied with as of closing date. Title may also be subject to easements for access, maintenance or encroachment required for adjoining and other properties and to the encroachments permitted thereby.

The Purchaser acknowledges and agrees that various equipment, signage and infrastructure including, without limitation, telecommunication and/or electrical pedestals and equipment, community mailboxes, streetlights, fire hydrants, catch-basins, landscaping features, subdivision entrance features and bus stops and/or shelters, may be located on or adjacent to the Lands and may be visible from the Unit and that sidewalks may be constructed adjacent to the Lands whether or not shown on any plans existing at the time of acceptance hereof and such items will not be a cause for an abatement of the Purchase Price or any other claim of any kind by the Purchaser.

22. The Purchaser is aware that upon registration of the Condominium Plan, a Condominium Corporation (the "**Condominium Corporation**") will be or was, as the case may be, established to operate and maintain the common elements and Managed Property of the condominium Project. The Purchaser agrees to observe and perform the terms and conditions of the Act, the

By-Laws and the regulations of the Condominium Corporation. The Vendor agrees to register substitutional or replacement By-Laws which shall be substantially in the form as the Proposed Condominium By-Laws.

23.

- (a) The Vendor is hereby granted the unrestricted right, at its option, to cancel and terminate this Agreement at any time prior to final Closing upon written notice to that effect to the Purchaser, and to declare the whole balance of the Purchase Price immediately due and payable together with interest thereon, in the following circumstances:
  - (i) if the Purchaser makes an assignment of this Agreement without first obtaining the written consent of the Vendor;
  - (ii) if the Purchaser becomes insolvent or bankrupt;
  - (iii) if the Purchaser fails to deliver any of the deposits provided for herein within the time prescribed for payment thereof;
  - (iv) if the Purchaser fails to comply with any of the terms of this Agreement or fails to complete or execute or deliver any document or instrument herein required or provided for;
  - (v) if the Purchaser fails to notify the Vendor of any contact information changes at the time such changes occur; and
  - (vi) if, in the sole opinion of the Vendor, the Purchaser is not cooperating with the Vendor or acting in good faith, or if the Purchaser's actions or inactions are delaying the completion of the Unit.
- (b) Should any condition to this Agreement either not be satisfied or waived, as the case may be, or if this Agreement is statutorily rescinded, on the return of the deposits paid this Agreement shall be considered null and void and the Purchaser shall have no further claim against either the Vendor or the property;
- (c) In the event this Agreement is cancelled or terminated by the Vendor pursuant to this clause, the Purchaser will vacate the Unit within fifteen (15) days of the date of notice of termination and the Vendor shall, at its option, retain any deposits made hereunder and the same shall be absolutely forfeited to the Vendor as liquidated damages (without in any way restricting the Vendor from pursuing any claim or other action of any nature to which it may be entitled at law against the Purchaser);
- (d) In the event of termination or cancellation of this Agreement, the Vendor shall be entitled to be reimbursed for the cost of paying out any lien, execution or encumbrance attributable to the Purchaser and the cost of any extras or improvements requested by the Purchaser;
- (e) If this Agreement is terminated by either party pursuant to this Clause, the Vendor shall promptly inspect the Unit and if, in the sole opinion of the Vendor, any redecoration or repair thereto is required to restore the Unit to its condition as at the Possession Date, the same may be effected by the Vendor at the sole cost of the Purchaser and the Vendor may

deduct the cost thereof from the deposit monies of the Purchaser held by the Vendor and/or demand payment of such cost from the Purchaser;

- (f) Any rental or common expenses paid by the Purchaser hereunder are not refundable in the event of termination.
24. The Purchaser acknowledges that there are no recreational facilities, recreational agreements, equipment or other amenities to be used by the occupants of the project and there is no equipment to be provided by the Vendor to be used for the maintenance of the common or managed property.
25. The Unit Factor for each Unit has been estimated and has been apportioned based on anticipated maintenance costs. Minor adjustments may be made to the Unit Factor for the Unit as may be necessary to make the Unit Factors for all the units total 10,000 as required by law. The Purchaser agrees that the actual Unit Factor will be determined from the Condominium Plan filed at the Land Titles Office.
26. It is estimated that the monthly common expenses contribution for each Unit shall be as set out in the Proposed Condominium Operating Budget. The Purchaser acknowledges that this amount is an estimate only and is subject to change by the Condominium Corporation constituted upon registration of the Condominium Plan or its Board of Directors.
27. The Purchaser hereby agrees that failure to complete other units, or the common property, before the Confirmed Occupancy date for the Unit shall not be deemed to be a failure to complete the Unit so as to be reasonably suitable for occupation by the Purchaser.
28. The Purchaser acknowledges that the Unit is or will be a Unit in a condominium project and the Purchaser further acknowledges that pursuant to s.12 and s. 13 of the Act, the Purchaser has, with or before the submission hereof, received a copy of the Purchase Agreement and copies of the Schedules set out in paragraph 29.
29. The Schedules referred to in this Agreement, which may be attached hereto or included in the Condominium Document Binder, are deemed to be incorporated herein and include the following (note that all unsigned agreements or unregistered documents are as proposed):

SCHEDULE "A" Proposed Site Plan being a drawing showing the location of roadways, walkways, fences, parking areas, landscaping, utility easements, retaining walls and similar significant features.

SCHEDULE "B" Proposed Condominium Plan(s)

SCHEDULE "C" Proposed Condominium Operating Budget. The attached Budget is an estimate presented for informational purposes only and the Vendor accepts no responsibility for the accuracy of the estimated figures

SCHEDULE "D" Proposed Condominium By-Laws

The Purchaser acknowledges and agrees that the Vendor shall be entitled to make changes to the above documents provided that the changes will not materially alter or affect the value,

Schedule "E" Forms part of this contract.



marketability, amenities or appearance of the property purchased by the Purchaser hereunder (as determined by the Vendor acting reasonably).

30. The Purchaser agrees that notwithstanding the provisions of the By-Laws of the Project the mortgage lender shall have the right to erect a sign on the common property advertising the source of financing and the Vendor shall have the right to maintain and use a reasonable number of units for display and sale purposes and exhibit a sign or signs advertising the location of such display units on or about the display units or on the common property until all the units in the Project are sold and that any provisions of the By-Laws which might restrict the Vendor in this respect, if any, are hereby waived by the Purchaser.
31. The Purchaser understands that the construction site is hazardous. The Purchaser shall have no right of access to the Unit until possession is provided by the Vendor, and if the Purchaser shall enter the Unit or the Project prior to possession, the Purchaser shall do so at the Purchaser's sole risk, and the Purchaser shall indemnify the Vendor from and against any and all loss, injury, damages, claims and costs occasioned to the Project or Vendor in consequence of such entry (including without limitation where arising through injury or loss to a guest or invitee of the Purchaser). In the event that the Purchaser should breach the provisions of this section, the Vendor shall have the option of declaring this Agreement null and void where upon the rights and interest created or then existing in favour of the Purchaser or derived under the provisions of this Agreement shall cease and terminate and the Purchaser shall have no right to reclaim any monies paid with respect to this Agreement, and the same shall be retained by the Vendor.
32. This Agreement is the entire agreement between the parties and they acknowledge and conclusively agree that there are no further or other conditions, representations, warranties, undertakings, guarantees, promises or agreements either express or implied, either by law or custom, save those mentioned in this Agreement and the annexed Schedules, and that no oral or written agreements, representations, promises or any warranties made by any person shall be binding upon the Vendor unless made in writing and signed on behalf of the Vendor.
33. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.
34. All notices required herein shall be in writing and shall be delivered or mailed to the Purchaser at the address of the Unit, if the Purchaser has taken possession, or at the Purchaser's address below if the Purchaser has not taken possession, and to the Vendor at the address below. Any notice shall be deemed to be served on the date of delivery or if mailed, upon the fourth day following its deposit, postage prepaid, at a post office or postal box in Alberta.
35. The Vendor has placed or may be placing a blanket mortgage or mortgages against the Lands to finance the construction of the Project (the "**Construction Mortgage**") and shall be entitled to receive any and all proceeds of advances made under the Construction Mortgage. The Vendor agrees to require the Construction Mortgage to provide that upon payment of an amount not exceeding the Purchase Price, the Mortgagee thereunder will provide a partial discharge of the Construction Mortgage with respect to the Unit. The Purchaser agrees that the Vendor may use a portion or all of the Purchase Price to obtain such partial discharge and that the discharge may be registered subsequent to the Confirmed Occupancy Date. Within a reasonable time after the closing, title to the Unit shall be clear of any mortgages and financial charges occasioned by the Vendor. All costs of discharging any existing mortgages or other financial charges occasioned by the Vendor are to be borne by the Vendor.

36. All the rights, obligations, representations, warranties, covenants and indemnities contained in this Agreement shall in no way merge with the Transfer of the Unit hereunder and shall in all respects remain in full force and effect notwithstanding conveyance of the Unit.
37. The parties hereto agree to execute such further documents, conveyances and assurances as may be necessary in order to give full force and effect to the true intended meaning of this Agreement.
38. If any dispute arises between the Vendor and the Purchaser with respect to any matter in relation this Agreement or any rights or obligations under the *Condominium Property Act*, R.S.A. 2000, c-22, the dispute shall be settled by binding arbitration pursuant to the *Arbitration Act* of the Province of Alberta, provided that the arbitral tribunal shall be composed of one arbitrator.
39. This offer shall be open for acceptance by the Vendor in writing until 6:00 o'clock p.m., on the 5<sup>th</sup> business day following the date hereof. Provided that if it is accepted by the Vendor and not rescinded within the time limited in paragraph 1(a) of this Agreement, then it shall be a fully binding Agreement in all respects in accordance with the terms set out herein. Time is of the essence of this Agreement.
40. This Offer to Purchase and any contract constituted as a result of acceptance thereof by the Vendor shall be governed by the laws of the Province of Alberta.
41. If any provision of this Agreement is, or becomes, illegal, invalid or unenforceable, such provision shall be severed from this Agreement and be ineffective to the extent of such illegality, invalidity or unenforceability. The remaining provisions of this Agreement shall be unaffected by such provision and shall continue to be valid and enforceable.
42. This Agreement may be amended, revoked or terminated only by written agreement executed by both parties hereto.
43. Each of the Parties has been advised, and given sufficient opportunity, to seek independent legal advice prior to executing this Agreement. The Parties are each satisfied in all respects with the rights and obligations created by this Agreement and the Parties further agree that this Agreement shall not be interpreted against on party merely because such party has drafted all or part of this Agreement.
44. In this Agreement, words importing the singular number only shall include the plural and vice versa, words imputing gender shall include all genders and words imputing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.
45. Subject to those allowances for time permitted in this Agreement, time shall be of the essence in this Agreement.
46. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same agreement. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by email (PDF) facsimile transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving party.

47. IN RELATION TO THE TRANSACTIONS HEREIN CONTEMPLATED, THE VENDOR WILL COLLECT PERSONAL INFORMATION ABOUT THE PURCHASER. THE PURCHASER HEREBY CONSENTS TO THE DISCLOSURE OF ANY OR ALL SUCH PERSONAL INFORMATION BY THE VENDOR TO:

- (a) BANKS OR OTHER FINANCING ENTITIES FOR THE PURPOSE OF THE VENDOR APPLYING FOR AND OBTAINING FINANCING AND TO THE EXTENT REQUIRED BY THE TERMS OF ANY OF THE VENDOR'S FINANCING; AND
- (b) ANY THIRD PARTIES WHO MAY APPROACH THE VENDOR FOR THE PURPOSE OF SUCH THIRD PARTY PROVIDING SERVICES TO THE PURCHASER AND OTHER PURCHASERS WITHIN THE PROJECT.

DATED at the City of Calgary, in the Province of Alberta, this 27 day of April, 2016

PURCHASER(S):

Corporate Name, if applicable:

\_\_\_\_\_

Per: J. [Signature]

Name:

Title, if applicable:

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

Name:

Title, if applicable:

Witness

[Signature]

Witness

\_\_\_\_\_

THE PURCHASER EXPRESSLY ACKNOWLEDGES RECEIPT OF A FULLY EXECUTED COPY OF THE WITHIN PURCHASE AGREEMENT AND ALL SCHEDULES REFERRED TO THEREIN WHICH PERTAIN TO THE PROJECT THIS 27 DAY OF April, 2016.

PURCHASER(S):

Corporate Name, if applicable:

*[Handwritten initials]*

*[Signature]*  
Witness

Per: *[Signature]*  
Name:  
Title, if applicable:

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
Name:  
Title, if applicable:

ACCEPTANCE

The undersigned Vendor of the Unit, hereby accepts the within Offer subject to all the terms and conditions therein set forth and acknowledges receipt of the initial deposit.

CEANA DEVELOPMENT SUNRIDGE INC.

DATED: 27 April 2016

Per: *[Signature]*  
Name:  
Title:

**PURCHASER'S INFORMATION**

Full Name of Purchaser(s): \_\_\_\_\_

\_\_\_\_\_

Work Phone Number: \_\_\_\_\_

Home Phone Number: \_\_\_\_\_

Cellular Phone Number: \_\_\_\_\_

Current Address: \_\_\_\_\_

\_\_\_\_\_

Purchaser's Lawyer: \_\_\_\_\_

Lawyer Phone Number: \_\_\_\_\_

Lawyer Fax Number: \_\_\_\_\_

**VENDOR'S INFORMATION**

Vendor: Ceana Development Sunridge Inc.

Phone Number: 403-397-6606

Fax Number: \_\_\_\_\_

Address: 101, 3115 – 12<sup>th</sup> Street NE

Calgary, Alberta T2E 7J2

Vendor's Lawyer: Khalil Haji – KH/Dunkley Law Group

Lawyer Phone Number: 403-207-4662

Lawyer Fax Number: 403-206-0672

**ADDENDUM FOR EXTRAS AND UPGRADES**

**[TO BE INSERTED, IF ANY]**

CEANA DEVELOPMENT SUNRIDGE INC.

DEPOSIT RECEIPT

Address: CRU 8, 2255 – 32<sup>nd</sup> Street NE, Calgary, Alberta

This letter hereby confirms that CEANA DEVELOPMENT SUNRIDGE INC. has received your deposit in the sum of:

\$ 113,000

Such deposit was received by CEANA DEVELOPMENT SUNRIDGE INC. on:

*[Signature]*

CONFIRMED by the Purchaser:

Signed: *[Signature]*

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

ACKNOWLEDGED by CEANA DEVELOPMENT SUNRIDGE INC.

Signed: *[Signature]*

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

NOTICE OF WAIVER/SATISFACTION OF PURCHASER'S CONDITIONS

To: CEANA DEVELOPMENT SUNRIDGE INC.  
101, 3115 – 12<sup>th</sup> Street NE, Calgary, Alberta, T2E 7J2

From: \_\_\_\_\_ (the "Purchaser")

Re: Property Address: 2255 <sup>CRU. 8</sup> <sup>Calgary D.</sup> <sup>1675 Jkt.</sup>, 2255 – 32<sup>nd</sup> Street NE, Calgary, Alberta

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TAKE NOTICE that:

1. The Purchaser hereby waives the condition(s) precedent for its sole benefit and which are described in Section 1 of the purchase contract made between the Vendor and the Purchaser (the "Purchase Contract"), being:
  - (a) This Offer is conditional upon the Purchaser reviewing all proposed bylaws, proposed budget and Project related material within ten (10) days of delivery to the Purchaser. If this Offer is withdrawn by the Purchaser within this ten (10) day period, all deposit monies will be returned to the Purchaser without deduction. This condition shall be deemed to be waived by the Purchaser at the expiration of the ten (10) day period unless the Purchaser, by written notice to the Vendor prior to the expiry date, advises that the condominium documents are unsatisfactory and the Offer is withdrawn.
  - (b) If a new mortgage is contemplated above, this Offer is conditional upon the Purchaser obtaining approval for new financing on or before the expiration of ten (10) days from the Vendor's acceptance, failing which this Offer shall terminate and all monies paid by the Purchaser to the Vendor shall be refunded.
2. The Purchaser is providing this written notice to the Vendor in compliance with Section 1 of the Purchase Contract.
3. All other provisions in the Purchase Contract remain in full force and effect.
4. In this notice, the singular shall be constituted as the plural where the context so requires.

*[Remainder of page intentionally left blank.]*

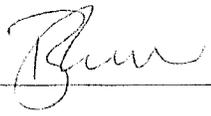
5. This notice shall enure to the benefit of, and be binding upon, the Purchaser and its heirs, executors, administrators and assigns.

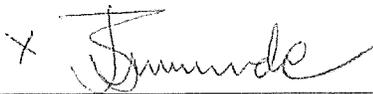
DATED at the City of Calgary, in the Province of Alberta, on 27 April 2016.

**PURCHASER(S):**

**Corporate Name, if applicable:**

\_\_\_\_\_

Witness 

Per:   
Name:  
Title, if applicable:

Witness \_\_\_\_\_

Per: \_\_\_\_\_  
Name:  
Title, if applicable:

AMENDMENT TO AGREEMENT OF  
PURCHASE AND SALE

THIS IS EXHIBIT "B" REFERRED TO IN  
THE AFFIDAVIT OF JASBIR MUNDI.

BETWEEN BUYER: 1695411 ALBERTA LTD  
AND SELLER: CEANA DEVELOPMENT SUNRIDGF INC

SWORN BEFORE ME THIS 23 DAY OF  
NOVEMBER, 2020.

  
A Commissioner for Oaths in and for Alberta

RE: Purchase Contract dated the 27 th day of April 2016.  
Concerning the property CRU 8 at 2255-32 ST N E. Calgary.

Douglas S. Nishimura  
Barrister & Solicitor

Following changes shall be made to above Purchase Contract and  
except for such changes noted below all other terms and conditions  
in the Purchase Contract shall remain as stated therein.

The Buyer and The Seller agree to the following Amendments to  
the aforementioned Agreement:

Possession date for Building "A, B, C & D"  
will now be August 30<sup>th</sup>, 2019.

Possession date for Building "E" will be December 15<sup>th</sup> 2019.

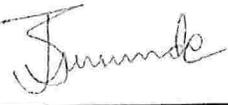
Possession dates may vary due to unavoidable circumstances.

Dated this 6th day of May 2019 in the City of Calgary Alberta.

  
1685411 ALBERTA LTD

Corporation name

  
Buyer name

  
Signature

Ceana Development Sunridge Inc  
Seller name

\_\_\_\_\_  
Signature