

ACTION NO. 1001-03215

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

**NOTICE OF MOTION**  
**(Re: Additional Borrowings, etc.)**

**TAKE NOTICE** that an application will be made on behalf of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation (“PDC”) and Perera Shawnee Ltd. (“PSL”, or when reference is being made to PDC and PSL collectively, the “**Debtor**”), and not in its personal capacity (the “**Receiver**”) before the Honourable Madam Justice A. Kent in Chambers at the Calgary Courts Centre, 601-5<sup>th</sup> Street S.W., at the City of Calgary, in the Province of Alberta, on Tuesday, the 12<sup>th</sup> day of October, 2010 at 2:00 p.m. or as soon thereafter as counsel may be heard for the following relief:

1. an order that the time for service of this Notice of Motion (the “**Motion**”) is abridged if necessary, that this application is properly returnable on October 12, 2010, that service of

- the Motion and the Third Report of the Receiver, dated October 7, 2010 (the “**Third Receiver’s Report**”) on the persons listed in Schedule “**G**” to the Motion (collectively, the “**Service List**”) is good and sufficient, and that no persons other than those on the Service List are entitled to notice of the Motion;
2. a sealing order, substantially in the form attached as Schedule “**A**” (the “**Second Sealing Order**”), sealing on the Court file the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “**Confidential Fourth Receiver’s Report**”);
  3. 2 separate vesting orders, each substantially in the form attached as Schedule “**B**” (the “**October 12 Vesting Order**”), in order to effect the closing of the 802 and 804 Purchase Contracts (as hereinafter defined) for the purchase of units in Condominium Plan 0915321 (the “**Plan**”) as referenced in the Third Receiver’s Report;
  4. an order, substantially in the form attached as Schedule “**C**” (the “**Additional Borrowings Order**”), authorizing the Receiver to borrow up to an additional \$4,300,000 (the “**Additional Borrowings**”);
  5. an order, pursuant to ss. 14(13) and 14(14) of the *Condominium Property Act*, R.S.A. 2000, c. C-22 (the “**CPA**”) substantially in the form attached as Schedule “**D**” (the “**Phase Two Deposit Funds Order**”), giving directions regarding the release of the Phase Two Deposit Funds (as hereinafter defined);
  6. 13 separate amended and restated vesting orders, substantially in the form attached as Schedule “**E**” (the “**Amended and Restated Vesting Order**”), in order to effect the closing of the 15 PSL Purchase Contracts (as hereinafter defined) for the purchase of units in the Plan, each of which is the subject of a vesting order granted by the Honourable Justice R.G. Stevens on August 13, 2010 (collectively, the “**Vesting Orders**”);
  7. an order, substantially in the form attached as Schedule “**F**” (the “**October 12 Closing Process Order**”), directing that the Clerk of the Court of Queen’s Bench of Alberta (the “**Clerk**”), upon receipt of a letter in the form attached as Schedule “**A**” to the October 12 Closing Process Order from the solicitors for the Receiver (the “**Clerk’s Letter**”), issue separate vesting orders, substantially in the same form as the October 12 Vesting Order,

in order to effect the closing of any purchase contracts that the Receiver may enter into after October 1, 2010 with any persons for the purchase of units in the Plan; and

8. such further and other relief that the Receiver may seek and this Honourable Court may deem just.

**AND FURTHER TAKE NOTICE THAT** the grounds upon which this application is brought include the following:

### **GENERAL**

9. On March 3, 2010, the Receiver was appointed as receiver and manager of the Debtor pursuant to an order issued by the Honourable Madam Justice A. Kent of the Court of Queen's Bench of Alberta (the "**Receivership Order**"). All capitalized terms not otherwise defined herein have the meanings ascribed to them in the Receivership Order.
10. At the time that the Receivership Order was issued, PSL was in the process of constructing a condominium development in southwest Calgary known as the Highbury (the "**Project**"). The Project was planned to be completed in three separate phases ("**Phase One**", "**Phase Two**" and "**Phase Three**").
11. There are a total of 70 units in Phase One of the Project:
  - (a) 22 of the units had been sold and conveyed by PSL to persons prior to the issuance of the Receivership Order;
  - (b) 15 of the units (the "**15 Units**") are owned by PSL and are subject to purchase and sale contracts (the "**15 PSL Purchase Contracts**"). The Receiver had set specified closing dates for the 15 Units during the week of August 30 – September 3, 2010 (the "**Closing Dates**"). The Vesting Orders for the 15 Units allowed the Receiver to transfer title to the 15 Units free and clear of the multiple builder's liens (the "**Liens**") that have been registered against the title to each unit. New closing dates have been set for 13 of the Units (the "**13 Units**");
  - (c) 22 of the units (the "**22 Units**") are owned by PSL and are subject to purchase and sale contracts (the "**22 PSL Purchase Contracts**"). On August 13, 2010 the Honourable Justice R.G. Stevens granted closing process orders that established a

process for the issuance of Vesting Orders for the 22 Units (the “**PSL Closing Process Order**”); and

- (d) the remaining 11 units that were not presold are listed for sale. Two of those units (“**Unit 802**” and “**Unit 804**”, respectively) are now the subject of purchase and sale contracts dated June 2, 2010 and September 7, 2010, respectively (the “**Unit 802 Purchase Contract**” and the “**Unit 804 Purchase Contract**”).
12. In late August 2010, confirmation of an issue with the bricks that clad the outside of the condominium tower and the townhouses was received (the “**Brick Issue**”), as more particularly described in the Third Receiver’s Report. As a result of the Brick Issue and the Safety Code Issue (as defined in the Third Receiver’s Report), the Receiver is not able to transfer title to any of the units in the Project until the Brick Issue is resolved. It is estimated that the Brick Issue, and therefore the Safety Code Issue, will be resolved in approximately 4-6 weeks.

#### **SECOND SEALING ORDER**

13. The Confidential Fourth Receiver’s Report contains confidential information including sale prices under the Unit 802 Purchase Contract and the Unit 804 Purchase Contract, which would prejudice the market for the Project and may undermine the Receiver’s efforts in closing the Purchase Contracts and selling any of the unsold units. The Confidential Fourth Receiver’s Report also contains personal information with respect to the Phase Two Purchasers (as hereinafter defined), the combination of which is sensitive and requires confidentiality protection. As such, the issuance of the Second Sealing Order is required and will be for the general benefit of all of the stakeholders of the Debtor.

#### **THE OCTOBER 12 VESTING ORDER**

14. Paragraph 3(1)(ii) of the Receivership Order requires the Receiver to obtain approval of the Court in respect of any transaction in which the purchase price exceeds \$100,000.
15. The issuance of the October 12 Vesting Order will:

- (a) provide for the closing of the Unit 802 Purchase Contract and the Unit 804 Purchase Contract and the discharge of encumbrances registered against Unit 802 and Unit 804;
- (b) preserve the sale proceeds from the closing of the Unit 802 Purchase Contract and the Unit 804 Purchase Contract pending further order of the Court; and
- (c) be to the general benefit of all of the stakeholders of the Debtor.

### **ADDITIONAL BORROWINGS**

- 16. Pursuant to paragraph 19 of the Receivership Order, the Receiver was authorized to borrow monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount did not exceed \$3,000,000 (or such greater amount as this Court may by further Order authorize).
- 17. The Receiver requires the authority to borrow the Additional Borrowings to preserve, protect and realize upon the Property (as defined in the Receivership Order) including to meet the expenses disclosed in the Third Receiver's Report.

### **PHASE TWO DEPOSIT FUNDS**

- 18. Deposit funds paid by the Phase Two purchasers (the "**Phase Two Purchasers**") in respect of the Phase Two Purchase Contracts (collectively, the "**Phase Two Deposit Funds**") are currently held by Mcleod & Company LLP ("**MC LLP**") pursuant to section 14(3) of the *CPA*. MC LLP has advised the Receiver that it currently holds total Phase Two Deposit Funds in the amount of \$1,106,145.
- 19. The Receiver does not intend to construct the Phase Two Units or close the Phase Two Purchase Contracts.
- 20. Pursuant to section 14(13) of the *CPA*, an interested party may apply to this Honourable Court for an order that money held under section 14 of the *CPA* be paid out of trust or otherwise disbursed. Pursuant to section 14(14) of the *CPA*, the Court may give any direction that the Court considers appropriate in the circumstances, including directions as to whom the money is to be paid.

21. The issuance of the Phase Two Deposit Funds Order will establish an orderly and efficient process for the Phase Two Deposit Funds to be returned to the Phase Two Purchasers and, in the case of a portion of the deposit paid by one Phase Two Purchaser, to be paid to the Receiver pursuant to paragraph 2.1(e) of Unit 802 Purchase Contract.

#### **AMENDED AND RESTATED VESTING ORDERS**

22. All capitalized terms not otherwise defined in this section of the Motion have the meanings ascribed to them in the Vesting Orders.
23. Paragraph 4 of the Vesting Orders required each Purchaser to provide the Receiver with written notice of the name and address of his/her solicitor for the Transaction within 5 days of being served with the Vesting Order.
24. Paragraph 5 of the Vesting Orders specified a closing date for each Transaction (collectively, the “**Closing Dates**”). The Transactions did not close on the Closing Dates because the Purchasers did not meet their obligations pursuant to paragraph 4 of the Vesting Orders and because the Receiver received confirmation of the Brick Issue and the Safety Code Issue.
25. The issuance of the Amended and Restated Vesting Orders serves to update the Vesting Orders by referencing new closing dates to take into account the Brick Issue and the Safety Codes Issue, and provides for a way that the Receiver can close certain of the 15 PSL Purchase Contracts with those who wish to do so, all without prejudice to all of the rights of the Purchasers as provided for in paragraph 19(d)(ii) of the Amended and Restated Vesting Orders.

#### **THE OCTOBER 12 CLOSING PROCESS ORDER**

26. Paragraph 3(1)(ii) of the Receivership Order requires the Receiver to obtain approval of the Court in respect of any transaction in which the purchase price exceeds \$100,000.
27. The Receiver will require approval in respect of any transaction pursuant to which the units that were not presold are sold to third parties. Also, in the event that units become available for re-listing because transactions pursuant to any of the 15 PSL Purchase Contracts, 22 PSL Purchase Contracts, the Unit 802 Purchase Contract and Unit 804

Purchase Contract do not close (the “**Unlisted Units**”) the Receiver intends to resell those units.

28. The issuance of the October 12 Closing Process Order will establish an efficient and cost-effective closing process for units that were not presold and Unlisted Units that become subject to a new purchase contract between the Receiver and various purchasers, whereby the number of court applications can be minimized and therefore will be to the general benefit of all of the stakeholders of the Debtor.

**AND FURTHER TAKE NOTICE THAT** the Receiver will rely upon the following:

29. The pleadings filed herein, including the First Receiver’s Report, the Confidential Second Receiver’s Report, the Third Receiver’s Report, the Confidential Fourth Receiver’s Report and the Receivership Order;
30. The *Alberta Rules of Court*, A.R. 390/68 and the *CPA*; and
31. Such further and other materials as counsel for the Receiver may advise and this Honourable Court may permit.

**DATED** at the City of Calgary, in the Province of Alberta, this 7<sup>th</sup> day of October, 2010.

**OSLER, HOSKIN & HARCOURT LLP**



Christa Nicholson

Counsel for the Receiver, Deloitte & Touche Inc.

TO: The Clerk of the Court  
AND TO: The Service List (Schedule “G” hereto)

**SCHEDULE "A" TO THE NOTICE OF MOTION, DATED OCTOBER 12, 2010**

**ACTION NO. 1001-03215**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

BEFORE THE HONOURABLE  
MADAM JUSTICE A. KENT  
IN CHAMBERS

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AT THE COURTHOUSE, IN THE CITY  
OF CALGARY, IN THE PROVINCE OF  
ALBERTA, ON TUESDAY, THE 12th  
DAY OF OCTOBER, 2010

**SEALING ORDER**

**UPON** the application of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "Debtors"), and not



in its personal capacity (the “**Receiver**”); **AND UPON** noting the Order issued by Madam Justice A. Kent on March 3, 2010 (the “**Receivership Order**”); **AND UPON** noting the Affidavit of Service of ●, sworn ● (the “**Affidavit of Service**”); **AND UPON** reading the First Report of the Receiver, dated July 30, 2010 (the “**First Receiver’s Report**”); **AND UPON** reading the Confidential Second Report of the Receiver, dated August 11, 2010 (the “**Confidential Second Receiver’s Report**”); **AND UPON** reading the Third Report of the Receiver, dated October 7, 2010 (the “**Third Receiver’s Report**”); **AND UPON** reading the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “**Confidential Fourth Receiver’s Report**”); **AND UPON** hearing from counsel for the Receiver and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for service of this Notice of Motion, dated October 12, 2010 (the “**Motion**”) and the Third Receiver’s Report is abridged, if necessary, the Motion is properly returnable today, service of the Motion and the Third Receiver’s Report on the persons listed in Schedule “**G**” to the Motion (collectively, the “**Service List**”) in the manner described in the Affidavit of Service is good and sufficient and no persons other than those on the Service List are entitled to notice of the Motion or service of the Third Receiver’s Report.
2. The Confidential Fourth Receiver’s Report shall:
  - (a) be sealed on the court file; and
  - (b) not form part of the public record.
3. The Clerk of this Honourable Court shall file the Confidential Fourth Receiver’s Report in a sealed envelope attached to a notice that:
  - (a) sets out the style of cause of these proceedings; and
  - (b) states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED BY DELOITTE & TOUCHE INC., IN ITS CAPACITY AS RECEIVER OF PERERA SHAWNEE LTD. AND PERERA DEVELOPMENT CORPORATION; and

THE CONFIDENTIAL MATERIALS ARE SEALED PURSUANT TO THE  
ORDER ISSUED BY MADAM JUSTICE A. KENT ON OCTOBER 12, 2010.

4. The Receiver is empowered and authorized, but not directed, to provide the Confidential Fourth Receiver's Report to First Calgary Savings & Credit Union Ltd., Don L. Perera and Shiranie M. Perera on appropriate confidentiality terms and conditions.
5. The Receiver is directed to provide Schedule "5" of the Confidential Fourth Receiver's Report to McLeod and Company LLP on appropriate terms and conditions.
6. Leave is hereby granted to any person, including the Receiver, to apply to this Honourable Court on notice to the Service List to vary or amend any provision of this Order.
7. Service of this Order by email, facsimile or registered mail to the persons listed on the Service List shall constitute good and sufficient service of this Order and no persons other than those listed on the Service List are entitled to be served with a copy of this Order.

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J.C.Q.B.A.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

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Clerk of the Court

**ACTION NO: 1001-03215**

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**IN THE COURT OF QUEEN'S BENCH  
OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

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**FIRST CALGARY SAVINGS & CREDIT UNION  
LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and  
SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION  
LTD. and DELOITTE & TOUCHE LLP**

**Defendants by Counterclaim**

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**SEALING ORDER**

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**OSLER, HOSKIN & HARCOURT LLP**  
TransCanada Tower  
450 - 1<sup>st</sup> Street, S.W. - Suite 2500,  
Calgary, Alberta T2P 5H1

Christa Nicholson  
Telephone: (403) 260-7025  
Facsimile: (403) 260-7024  
File: 1112189

**SCHEDULE "B" TO THE NOTICE OF MOTION, DATED OCTOBER 12, 2010**

**ACTION NO. 1001-03215**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

BEFORE THE HONOURABLE  
MADAM JUSTICE A. KENT  
IN CHAMBERS

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AT THE COURTHOUSE, IN THE CITY  
OF CALGARY, IN THE PROVINCE OF  
ALBERTA, ON TUESDAY, THE 12<sup>th</sup>  
DAY OF OCTOBER, 2010

**OCTOBER 12 VESTING ORDER**

**(Re: Purchase by ●)**

UPON the application of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "Debtors"), and not

in its personal capacity (the “**Receiver**”); **AND UPON** noting the Order issued by Madam Justice A. Kent on March 3, 2010 (the “**Receivership Order**”); **AND UPON** noting the Affidavit of Service of ●, sworn October ●, 2010 (the “**Affidavit of Service**”); **AND UPON** reading the First Report of the Receiver, dated July 30, 2010 (the “**First Receiver’s Report**”); **AND UPON** reading the Confidential Second Report of the Receiver, dated August 11, 2010 (the “**Confidential Second Receiver’s Report**”); **AND UPON** reading the Third Report of the Receiver, dated October 7, 2010 (the “**Third Receiver’s Report**”); **AND UPON** reading the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “**Confidential Fourth Receiver’s Report**”); **AND UPON** hearing from counsel for the Receiver and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

### **SERVICE**

1. The time for service of this Notice of Motion, dated October 12, 2010 (the “**Motion**”) and the Third Receiver’s Report is abridged if necessary, the Motion is properly returnable today, service of the Motion and the Third Receiver’s Report on the persons listed in Schedule “**G**” to the Motion (collectively, the “**Service List**”) in the manner described in the Affidavit of Service is good and sufficient and no persons other than the persons on the Service List are entitled to notice of the Motion or service of the Third Receiver’s Report.

### **APPROVAL OF THE SALE**

2. Without prejudice to any of the rights of ● (the “**Purchaser**”) as provided for in paragraph 19(d)(ii) of this Vesting Order, the sale contemplated by the purchase contract between ● and the Purchaser, dated ●, (the “**Purchase Contract**”) regarding a unit in Condominium Plan 0915321 (the “**Plan**”) for the Purchase Price (as that term is defined in the Purchase Contract) and legally described as follows, is hereby approved:

Condominium Plan 0915321  
Unit ●  
And ● undivided one ten thousandth shares in the  
common property  
Excepting thereout all mines and minerals

(the “**Unit**”).

3. Provided that the sale price in the Purchase Contract is at or above that referred to at Schedule “4”, Column “F” of the Confidential Fourth Receiver’s Report, the Receiver is authorized and empowered, but not directed, to close the Purchase Contract and convey title to the Unit to the Purchaser (the “**Transaction**”) pursuant to and in accordance with this Vesting Order.

### **CLOSING OF THE TRANSACTION**

4. In the event that the Purchaser intends to close the Transaction, the Purchaser shall provide the Receiver with written notice of the name and address of his/her solicitor for the Transaction (the “**Purchaser’s Solicitors**”) within 5 days of being served with a copy of this Vesting Order.
5. The closing of the Transaction shall be effected in accordance with the terms of the Purchase Contract and upon such trust conditions as may be agreed upon between the solicitors for the Receiver (the “**Receiver’s Solicitors**”) and the Purchaser’s Solicitors.
6. The closing date for the Transaction shall be ●, 20●, or such other date as may be agreed upon by the Purchaser and the Receiver (the “**Closing Date**”). There shall be an adjustment of taxes on the Closing Date.
7. Upon the delivery of a certified copy of this Vesting Order to the Registrar of the South Alberta Land Titles Office (the “**Registrar**”) and a written request from the Receiver’s Solicitors to do so, the Registrar shall:
  - (a) cancel certificate of title number 091 368 709 +● to the Unit (the “**Old Title**”);
  - (b) issue a new certificate of title to the Unit in the name of the Purchaser or his/her nominee (the “**New Title**”), which shall (subject to paragraphs 7(e) and 7(f) of this Vesting Order) include only the encumbrances listed in Schedule “A” to this Vesting Order (collectively, the “**Permitted Encumbrances**”);
  - (c) discharge any and all of the encumbrances from the New Title that are listed in Schedule “B” to this Vesting Order (collectively, the “**Listed Encumbrances**”);

- (d) discharge any and all encumbrances registered on the New Title on or after October 5, 2010 (collectively, the “**Subsequent Encumbrances**” or, when reference is being made to the Listed Encumbrances and the Subsequent Encumbrances collectively, the “**Discharged Encumbrances**”);
  - (e) register a copy of this Vesting Order on the New Title; and
  - (f) register any mortgage financing obtained by the Purchaser, or any other interests requested by the Purchaser, on the New Title.
8. The Registrar shall perform the steps specified in paragraph 7 of this Vesting Order:
- (a) in the order specified in paragraph 7 of this Vesting Order; and,
  - (b) notwithstanding the requirements of section 191 of the *Land Titles Act*, R.S.A. 2000, c. L – 4 (the “**LTA**”).

#### **VESTING OF TITLE TO THE UNIT**

9. Upon the Registrar issuing a certified copy of the New Title in accordance with paragraph 7(b) of this Order all right, title, interest, estate and equity of redemption of PSL, if any, and any persons claiming by, through or under PSL, in and to the Unit shall vest absolutely in the Purchaser free and clear of and from all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Receivership Order or by any other Order(s) in these or any other proceedings and (b) the Discharged Encumbrances (all of which are collectively referred to as the “**Encumbrances**”, which term shall include the Claims but shall not include the Permitted Encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Unit are hereby expunged and discharged as against the Unit.

## **TRANSFER OF MC LLP DEPOSIT FUNDS**

10. Upon the Register completing the steps identified in paragraph 7 of this Vesting Order, the Register shall forthwith make available to the Receiver's Solicitors a certified copy of the New Title.
11. Upon receipt of a certified copy of the New Title from the Receiver's Solicitors, the law firm of McLeod and Company LLP ("MC LLP") (Attention: Robin Lockhurst) shall forthwith, and in any event within three days of receipt of the certified copy of the New Title from the Receiver's Solicitors, provide the Receiver's Solicitors with all deposit funds (the "**Deposit Funds**") if any, that are currently held by MC LLP pursuant to the Purchase Contract.

## **AMENITIES HOLDBACK AMOUNT**

12. The Receiver shall deduct from the Deposit Funds and all amounts paid by the Purchaser's Solicitors to the Receiver's Solicitors pursuant to the Purchase Contract (collectively, the "**Total Proceeds**") the sum of \$● (the "**Amenities Holdback Amount**"), in accordance with section 14(5) of the *Condominium Property Act*, R.S.A. 2000, c. C – 22.
13. The Amenities Holdback Amount shall not be disbursed by the Receiver unless an Order allowing for a disbursement of the Amenities Holdback Amount is issued by this Court.

## **HOLDING OF THE NET PROCEEDS**

14. The Receiver shall hold the Total Proceeds, less the Amenities Holdback Amount (the "**Net Proceeds**") pursuant to and in accordance with the terms of this Vesting Order.
15. Upon the vesting of title to the Unit in the Purchaser pursuant to and in accordance with paragraph 9 of this Vesting Order, the Net Proceeds shall stand in the place and stead of the Unit and all of the Encumbrances shall attach to the Net Proceeds with the same priority that the Encumbrances had to the Unit immediately prior to the sale of the Unit, as if the Unit had not been sold and remained in the possession and control of PSL.



16. The Net Proceeds shall not be disbursed by the Receiver unless an Order allowing for a disbursement of the Net Proceeds is issued by this Court.

#### **FEES ASSOCIATED WITH THE ISSUANCE OF THE NEW TITLE**

17. All costs, fees and disbursements associated with the steps outlined in paragraph 7 of this Vesting Order, including the registration of any mortgage against the Unit in favour of the Purchaser's lender, shall be for the Purchaser's account.

#### **FAILURE TO CLOSE ON THE CLOSING DATE**

18. This Vesting Order is made for the purposes of allowing the Receiver and the Purchaser to close the Purchase Contract and convey title to the Unit to the Purchaser pursuant to and in accordance with the Purchase Contract. Nothing herein obligates the Purchaser to close the Purchase Contract or proceed with the Transaction.

19. In the event that the Transaction does not close on the Closing Date:

- (a) all of the Purchaser's right, title, interest, estate and equity of redemption, if any, and any persons claiming by, through or under the Purchaser, in and to the Unit are extinguished;
- (b) the Receiver is empowered and authorized, but not obligated, to sell, convey, transfer, lease or assign the Unit to a third-party;
- (c) MC LLP shall hold all of the Deposit Funds and shall not disburse the Deposit Funds unless on notice to the Purchaser an Order allowing for a disbursement of the Deposit Funds is issued by this Court;
- (d) except for as expressly set out in this Vesting Order, all of the other rights and liabilities of the Receiver (in its capacity as Court-appointed receiver and manager of PSL) and the Purchaser under and pursuant to the Purchase Contract are preserved including, without limiting the generality of the foregoing:
  - (i) the Receiver's right to claim (in its capacity as Court-appointed receiver and manager of PSL) that the Purchaser has breached the Purchase Contract, that all of the Deposit Funds and any other deposits paid by the

Purchaser pursuant to the Purchase Contract are forfeited to the Receiver, that the Receiver is entitled to make a claim on any bond issued to secure the Purchaser's obligation under the Purchase Contract (the "**Bond**") and that the Purchaser is liable for all damages sustained, if any, by the Receiver (in its capacity as Court-appointed receiver and manager of PSL) for the Purchaser's breach of the Purchase Contract; and

- (ii) the Purchaser's right to claim that PSL has breached the Purchase Contract, that the Purchaser was entitled to terminate or rescind the Purchase Contract, that the Purchaser is entitled to a return of the Deposit Funds and any other deposits paid by the Purchaser pursuant to the Purchase Contract and that PSL is liable for damages caused, including but not limited to damages caused by PSL's failure to complete amenities facilities and buildings associated with the Plan, to the Purchaser by PSL's breach of the Purchase Contract.

- 20. In the event that a Bond has been issued to secure the Purchaser's obligations under the Purchase Contract and the Receiver receives any funds pursuant to the Bond (the "**Bond Funds**"), the Receiver shall hold the Bond Funds and the Bond Funds shall not be disbursed by the Receiver unless on notice to the Purchaser an Order allowing for a disbursement of the Bond Funds is issued by this Court.

#### **SERVICE OF THIS ORDER**

- 21. This Vesting Order shall be served on the Purchaser or on the person identified as counsel for the Purchaser on the Service List (the "**Purchaser's Counsel of Record**"), and no other persons are entitled to be served with a copy of this Vesting Order. Service of this Vesting Order shall be good and sufficient:
  - (a) if being served on the Purchaser's Counsel of Record, by delivery of this Vesting Order on the Purchaser's Counsel of Record by PDF email, facsimile, rush courier or personal delivery to the office of the Purchaser's Counsel of Record; or
  - (b) if being served on the Purchaser directly, by delivery of this Vesting Order by PDF email, or by rush courier or personal delivery to the address provided by the

Purchaser in the Purchase Contract or such other address as the Purchaser may provide to the Receiver.

**ENCUMBRANCES REGISTERED ON OR AFTER OCTOBER 5, 2010**

22. On the day before the Closing Date, the Receiver shall obtain a copy of the Old Title and identify any persons who have registered Subsequent Encumbrances (collectively, the “**Subsequent Registrants**”). The Receiver shall contact each of the Subsequent Registrants and:

- (a) advise each of the Subsequent Registrants of the Receivership Order;
- (b) provide each of the Subsequent Registrants with a copy of this Order; and
- (c) add each of the Subsequent Registrants to the Service List.

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J.C.Q.B.A.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

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Clerk of the Court

**SCHEDULE "A" TO THE OCTOBER 12 VESTING ORDER**  
**PERMITTED ENCUMBRANCES**

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
861 205 323	11/12/1986	UTILITY RIGHT OF WAY GRANTEE - THE CITY OF CALGARY. AS TO PORTION OR PLAN:8611330
871 142 214	10/08/1987	CAVEAT RE : SEE CAVEAT CAVEATOR - FRANCES LORRAINE REHMAN
071 476 257	24/09/2007	CAVEAT RE : RESTRICTIVE COVENANT
091 088 418	02/04/2009	UTILITY RIGHT OF WAY GRANTEE - ENMAX POWER CORPORATION.
091 368 708	07/12/2009	CAVEAT RE : RESTRICTIVE COVENANT
091 374 432	10/12/2009	RESTRICTIVE COVENANT
091 374 433	10/12/2009	RESTRICTIVE COVENANT

**SCHEDULE "B" TO THE OCTOBER 12 VESTING ORDER**

**LISTED ENCUMBRANCES**

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
071 422 840	23/08/2007	MORTGAGE MORTGAGEE - FIRST CALGARY SAVINGS & CREDIT UNION LTD.
071 422 841	23/08/2007	CAVEAT RE : ASSIGNMENT OF RENTS AND LEASES CAVEATOR - FIRST CALGARY SAVINGS & CREDIT UNION LTD.
101 063 343	03/03/2010	BUILDER'S LIEN LIENOR - EMCO CORPORATION.
101 066 488	05/03/2010	BUILDER'S LIEN LIENOR - MIRCOM DISTRIBUTION (BC) INC..
101 067 936	08/03/2010	BUILDER'S LIEN LIENOR - 759450 ALBERTA LTD. 0/A INTERIOR FINISHING.
101 067 938	08/03/2010	BUILDER'S LIEN LIENOR - C. & T. REINFORCING STEEL CO. (ALBERTA) LTD..
101 069 174	09/03/2010	BUILDER'S LIEN LIENOR - ADLER FIRESTOPPING LTD..
101 071 142	10/03/2010	BUILDER'S LIEN LIENOR - COAST WHOLESALE APPLIANCES GP INC..
101 071 143	10/03/2010	BUILDER'S LIEN LIENOR - THE FINISHING CENTRE LTD..
101 072 838	11/03/2010	BUILDER'S LIEN LIENOR - MODERN INDUSTRIAL RENTALS (1978) LTD..
101 072 839	11/03/2010	BUILDER'S LIEN LIENOR - UNITED RENTALS OF CANADA, INC..
101 072 840	11/03/2010	BUILDER'S LIEN LIENOR - MORWEST CRANE & SERVICES LTD..
101 075 229	15/03/2010	BUILDER'S LIEN LIENOR - 1412705 ALBERTA LIMITED.
101 075 230	15/03/2010	BUILDER'S LIEN LIENOR - JMMK PLUMBING & HEATING INC..

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
101 075 235	15/03/2010	BUILDER'S LIEN LIENOR – GLOBAL STONE INC..
101 075 236	15/03/2010	BUILDER'S LIEN LIENOR – NOVASTONE INC..
101 076 429	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES LTD..
101 076 430	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES.
101 076 431	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES.
101 076 432	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES.
101 081 785	22/03/2010	BUILDER'S LIEN LIENOR – CANNEX CONTRACTING 2000 INC..
101 085 868	24/03/2010	BUILDER'S LIEN LIENOR – NORDSTAR KITCHENS LTD..
101 088 872	26/03/2010	BUILDER'S LIEN LIENOR – DOMENICO FANELLI
101 099 718	08/04/2010	BUILDER'S LIEN LIENOR – DISTINCTIVE FLOORS LTD..
101 100 273	08/04/2010	BUILDER'S LIEN LIENOR – RIDGELINE SHEET METAL INC..
101 100 274	08/04/2010	ORDER IN FAVOUR OF – DELOITTE & TOUCHE INC..
101 210 310	15/07/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101069174
101 230 491	04/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101072840
101 232 253	06/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075229
101 232 254	06/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101063343
101 235 115	09/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101085868
101 236 589	10/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101066488

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
101 243 275	17/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101099718
101 244 766	17/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101072839
101 250 899	23/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101067938
101 256 920	27/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101067936
101 261 640	01/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101081785
101 269 084	09/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075230
101 269 130	09/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075236
101 269 242	09/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075235
101 281 039	21/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101088872
101 288 123	28/09/2010	CERTIFICATE OF LIS PENDENS BY – ON TRACK EXCAVATING LTD.

**ACTION NO: 1001-03215**

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**IN THE COURT OF QUEEN'S BENCH  
OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

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**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA  
and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

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**OCTOBER 12 VESTING ORDER  
(Re: Purchase by ●)**

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**OSLER, HOSKIN & HARCOURT LLP**  
TransCanada Tower  
450 - 1<sup>st</sup> Street, S.W. - Suite 2500,  
Calgary, Alberta T2P 5H1

Christa Nicholson  
Telephone: (403) 260-7025  
Facsimile: (403) 260-7024  
File: 1112189



**SCHEDULE "C" TO THE NOTICE OF MOTION, DATED OCTOBER 12, 2010**

**ACTION NO. 1001-03215**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

BEFORE THE HONOURABLE	)	AT THE COURTHOUSE, IN THE CITY
MADAM JUSTICE A. KENT	)	OF CALGARY, IN THE PROVINCE OF
IN CHAMBERS	)	ALBERTA, ON TUESDAY, THE 12TH
	)	DAY OF OCTOBER, 2010

**ADDITIONAL BORROWINGS ORDER**

**UPON** the application of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "Debtor"), and not in its personal capacity (the "Receiver"); **AND UPON** noting the Order issued by Madam

Justice A. Kent on March 3, 2010 (the “**Receivership Order**”); **AND UPON** noting the Affidavit of Service of ●, sworn ● (the “**Affidavit of Service**”); **AND UPON** reading the First Report of the Receiver, dated July 30, 2010 (the “**First Receiver’s Report**”); **AND UPON** reading the Confidential Second Report of the Receiver, dated August 11, 2010 (the “**Confidential Second Receiver’s Report**”); **AND UPON** reading the Third Report of the Receiver, dated October 7, 2010 (the “**Third Receiver’s Report**”); **AND UPON** reading the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “**Confidential Fourth Receiver’s Report**”); **AND UPON** noting that the Receiver has borrowed the maximum funds permitted by paragraph 19 of the Receivership Order and requires authority to borrow an additional \$3.4 million; **AND UPON** hearing from counsel for the Receiver and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for service of this Notice of Motion, dated October 12, 2010 (the “**Motion**”) and the Third Receiver’s Report is abridged, if necessary, the Motion is properly returnable today, service of the Motion and the Third Receiver’s Report on the persons listed in Schedule “**G**” to the Motion (collectively, the “**Service List**”) in the manner described in the Affidavit of Service is good and sufficient and no persons other than those on the Service List are entitled to notice of the Motion or service of the Third Receiver’s Report.
2. The dollar figure “\$3,000,000” in the third line of paragraph 19 of the Receivership Order is hereby deleted and replaced with the dollar figure “\$7,300,000”.
3. Except only as set forth in paragraph 2 hereof, the Receivership Order and all of its provisions remain unchanged, unaltered and in full force and effect, including, without limitation, the right of any interested party to apply to this Court on notice, pursuant to paragraph 23 of the Receivership Order, for an order allocating the Receiver’s Charge and the Receiver’s Borrowings Charge amongst the various assets comprising the Property (as those terms are defined in the Receivership Order).
4. Any person, including the Receiver, has leave to apply to:
  - (a) vary or amend this Order; or
  - (b) seek further advice and directions from this Court in respect of this Order.

5. Service of this Order by email, facsimile or registered mail to the persons listed on the Service List shall constitute good and sufficient service of this Order and no persons other than those listed on the Service List are entitled to be served with a copy of this Order.

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J.C.Q.B.A.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

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Clerk of the Court

**ACTION NO: 1001-03215**

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**IN THE COURT OF QUEEN'S BENCH  
OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

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**FIRST CALGARY SAVINGS & CREDIT UNION  
LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and  
SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION  
LTD. and DELOITTE & TOUCHE LLP**

**Defendants by Counterclaim**

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**ADDITIONAL BORROWINGS ORDER**

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**OSLER, HOSKIN & HARCOURT LLP**

TransCanada Tower  
450 - 1<sup>st</sup> Street, S.W. - Suite 2500,  
Calgary, Alberta T2P 5H1

Christa Nicholson  
Telephone: (403) 260-7025  
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File: 1112189

**SCHEDULE "D" TO THE NOTICE OF MOTION, DATED OCTOBER 12, 2010**

**ACTION NO. 1001-03215**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

BEFORE THE HONOURABLE	)	AT THE COURTHOUSE, IN THE CITY
MADAM JUSTICE A. KENT	)	OF CALGARY, IN THE PROVINCE OF
IN CHAMBERS	)	ALBERTA, ON TUESDAY, THE 12TH
	)	DAY OF OCTOBER, 2010

**PHASE TWO DEPOSIT FUNDS ORDER**

**UPON** the application of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "**Debtor**"), and not in its personal capacity (the "**Receiver**"); **AND UPON** noting the Order issued by Madam

Justice A. Kent on March 3, 2010 (the “**Receivership Order**”); **AND UPON** noting the Affidavit of Service of ●, sworn ● (the “**Affidavit of Service**”); **AND UPON** reading the Third Report of the Receiver, dated October 7, 2010 (the “**Third Receiver’s Report**”); **AND UPON** reading the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “**Confidential Fourth Receiver’s Report**”); **AND UPON** noting that PSL had entered into purchase contracts (collectively, the “**Phase Two Purchase Contracts**”) with various persons (collectively, the “**Phase Two Purchasers**”) for the purchase and sale of units in Phase Two of the Project (collectively, the “**Phase Two Units**”); **AND UPON** noting that the Receiver does not intend to construct the Phase Two Units; **AND UPON** noting the accounting of McLeod and Company LLP (“**MC LLP**”) of all amounts received by MC LLP from the Phase Two Purchasers in respect of each of the Phase Two Purchase Contracts all as disclosed in Schedule “**A**” hereto; **AND UPON** hearing from counsel for the Receiver and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for service of this Notice of Motion, dated October 12, 2010 (the “**Motion**”), and the Third Receiver’s Report is abridged, if necessary, the Motion is properly returnable today, service of the Motion and the Third Receiver’s Report on the persons listed in Schedule “**G**” to the Motion (collectively, the “**Service List**”) in the manner described in the Affidavit of Service is good and sufficient and no persons other than those on the Service List are entitled to notice of the Motion or service of the Third Receiver’s Report.
2. Pursuant to sections 14(13) and 14(14) of the *Condominium Property Act*, R.S.A. 2000, c. C – 22, within 7 days of service of this Order, MC LLP shall release all amounts currently held by MC LLP in respect of the Phase Two Purchase Contracts (collectively, the “**Phase Two Deposit Funds**”) to those Phase Two Purchasers referred to in Schedule “**A**” hereto and in Schedule “**5**” of the Confidential Fourth Receiver’s Report, at the addresses and in the amounts set forth therein, except for the portion of the deposit of Waldemar Geier and Maria Geier (the “**Purchasers**”) in respect of Unit 1104, which is to be released to the Receiver pursuant to Paragraph 2.1(e) of the Offer to Purchase in respect of Unit 802 in Phase One entered into between the Purchasers and the Receiver on June 2, 2010.

3. Service of this Order by email, facsimile or registered mail to the persons listed on the Service List shall constitute good and sufficient service of this Order and no persons other than those listed on the Service List are entitled to be served with a copy of this Order.

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J.C.Q.B.A.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

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Clerk of the Court

**SCHEDULE "A" TO THE PHASE TWO DEPOSIT FUNDS ORDER**

**AMOUNTS RECEIVED AND DISBURSED BY MCLEOD AND COMPANY LLP IN  
RESPECT OF PHASE TWO PURCHASE CONTRACTS**

	<b>Purchaser</b>	<b>Unit</b>	<b>Total Deposit Paid</b>	<b>Deposit Drawn</b>	<b>Deposit Remaining in Trust</b>
1	Agam Consulting Inc. c/o Shivpaul Agam		\$17,895.00	nil	\$17,895.00
2	Kozmyk Holdings/Shaw Properties c/o Barry Kozmyk	104	\$22,210.00	nil	\$22,210.00
3	Wayne Poole & Diana Poole	207	\$31,570.00	nil	\$31,570.00
4	Jennifer Poole	301	\$12,000.00	nil	\$12,000.00
5	David Charles Very & Carole Very	503	\$28,995.00	nil	\$28,995.00
6	Yogesh Vijay Kulkarni & Anjali Yogesh Kulkarni	508	\$22,545.00	nil	\$22,545.00
7	Dan Peiris	604	\$24,795.00	nil	\$24,795.00
8	Cal Dudley Torgerson	605	\$35,405.00	nil	\$35,405.00
9	Janaka Yasantha Ruwanpura Krachihiae & Senani Dakshina Ruwanpura	608	\$22,695.00	nil	\$22,695.00
10	Queenie Wong	701	\$20,000.00	nil	\$20,000.00
11	Jamaledin Hedayat	702	\$20,000.00	nil	\$20,000.00
12	Cheung Kin Wilson Wong & Tsui Sim Paulita Chan	703	\$56,350.00	nil	\$56,350.00
13	Frostbite Holdings Inc.	704	\$1,150.00	nil	\$1,150.00
14	David S. Johnston & Francine Johnston	705	\$37,195.00	nil	\$37,195.00



	<b>Purchaser</b>	<b>Unit</b>	<b>Total Deposit Paid</b>	<b>Deposit Drawn</b>	<b>Deposit Remaining in Trust</b>
15	Nimal Rajapalkse	706	\$26,865.00	nil	\$26,865.00
16	Erin Meredith Ludwig	708	\$5,000.00	nil	\$5,000.00
17	Stan Wiens	801	\$39,280.00	nil	\$39,280.00
18	Nayereh Azam Kazemian	802	\$20,000.00	nil	\$20,000.00
19	Miranda Sze-Wing Yu & Michael Sze-Wai Yu	804	\$24,735.00	nil	\$24,735.00
20	Mouneissa Maiga	805	\$73,520.00	nil	\$73,520.00
21	Salim Sumar & Anar Sumar	806	\$27,205.00	nil	\$27,205.00
22	Amber Harder	808	\$10,000.00	nil	\$10,000.00
23	Raymond Pinto	901	\$20,000.00	nil	\$20,000.00
24	Robb & Evenson P.C.	903	\$57,710.00	nil	\$57,710.00
25	Bryan Woolley & Rob Tarnowski	904	\$25,070.00	nil	\$25,070.00
26	Minesh Modi	906	\$55,090.00	nil	\$55,090.00
27	Francis DaSilva	908	\$22,550.00	nil	\$22,550.00
28	BIZ-IQ Inc.	1001	\$20,695.00	nil	\$20,695.00
29	Umut Yasar	1002	\$20,000.00	nil	\$20,000.00
30	Robert Charbonneau	1003	\$29,195.00	nil	\$29,195.00
31	Chris Norton	1004	\$15,000.00	nil	\$15,000.00
32	Myron Semkuley & Elaine Semkuley	1005	\$38,165.00	nil	\$38,165.00
33	Gregory Robert Donaldson	1006	\$27,885.00	nil	\$27,885.00
34	Jeffrey B. Craig & Pamela Dawn Craig	1008	\$22,890.00	nil	\$22,890.00

	<b>Purchaser</b>	<b>Unit</b>	<b>Total Deposit Paid</b>	<b>Deposit Drawn</b>	<b>Deposit Remaining in Trust</b>
35	Waldemar Geier & Maria Geier	1104	\$100,495.00	nil	\$100,495.00
36	Lawrence W. Sinkey & Margaret Sinkey	505	\$71,990.00	nil	\$71,990.00
	<b>TOTAL</b>		\$1,106,145.00		\$1,106,145.00

**ACTION NO: 1001-03215**

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**IN THE COURT OF QUEEN'S BENCH  
OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

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**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA  
and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

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**PHASE TWO DEPOSIT FUNDS ORDER**

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**OSLER, HOSKIN & HARCOURT LLP**

TransCanada Tower  
450 - 1<sup>st</sup> Street, S.W. - Suite 2500,  
Calgary, Alberta T2P 5H1

Christa Nicholson  
Telephone: (403) 260-7025  
Facsimile: (403) 260-7024  
File: 1112189

**SCHEDULE "E" TO THE NOTICE OF MOTION, DATED OCTOBER 12, 2010**

**ACTION NO. 1001-03215**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

BEFORE THE HONOURABLE  
MADAM JUSTICE A. KENT  
IN CHAMBERS

)  
)  
)  
)

AT THE COURTHOUSE, IN THE CITY  
OF CALGARY, IN THE PROVINCE OF  
ALBERTA, ON TUESDAY, THE 12<sup>TH</sup>  
DAY OF OCTOBER, 2010

**AMENDED AND RESTATED VESTING ORDER**

**(Re: Purchase by●)**

UPON the application of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "Debtors"), and not

in its personal capacity (the “**Receiver**”); **AND UPON** noting the Order issued by Madam Justice A. Kent on March 3, 2010 (the “**Receivership Order**”); **AND UPON** noting the Affidavit of Service of ●, sworn October ●, 2010 (the “**Affidavit of Service**”); **AND UPON** reading the First Report of the Receiver, dated July 30, 2010 (the “**First Receiver’s Report**”); **AND UPON** reading the Confidential Second Report of the Receiver, dated August 11, 2010 (the “**Confidential Second Receiver’s Report**”); **AND UPON** reading the Third Report of the Receiver, dated October 7, 2010 (the “**Third Receiver’s Report**”); **AND UPON** reading the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “**Confidential Fourth Receiver’s Report**”); **AND UPON** hearing from counsel for the Receiver and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

### **SERVICE**

1. The time for service of this Notice of Motion, dated October 12, 2010 (the “**Motion**”) and the Third Receiver’s Report is abridged if necessary, the Motion is properly returnable today, service of the Motion and the Third Receiver’s Report on the persons listed in Schedule “**G**” to the Motion (collectively, the “**Service List**”) in the manner described in the Affidavit of Service is good and sufficient and no persons other than the persons on the Service List are entitled to notice of the Motion or service of the Third Receiver’s Report.

### **APPROVAL OF THE SALE**

2. Without prejudice to any of the rights of ● (the “**Purchaser**”) as provided for in paragraph 19(d)(ii) of this Amended and Restated Vesting Order, the sale contemplated by the purchase contract between PSL and the Purchaser, dated ●, (the “**Purchase Contract**”) regarding a unit in Condominium Plan 0915321 (the “**Plan**”) for the Purchase Price (as that term is defined in the Purchase Contract) and legally described as follows, is hereby approved:

Condominium Plan 0915321  
Unit ●  
And ● undivided one ten thousandth shares in the  
common property  
Excepting thereout all mines and minerals

(the “**Unit**”).

3. The Receiver is authorized and empowered, but not directed, to:
  - (a) make amendments to the Purchase Contract in accordance with the authorization provided in Schedule “3” to the Confidential Receiver’s Report, provided that the Purchaser agrees to such amendments being made to the Purchase Contract; and
  - (b) close the Purchase Contract and convey title to the Unit to the Purchaser (the “**Transaction**”) pursuant to and in accordance with this Amended and Restated Vesting Order.

### **CLOSING OF THE TRANSACTION**

4. In the event that the Purchaser intends to close the Transaction, the Purchaser shall provide the Receiver with written notice of the name and address of his/her solicitor for the Transaction (the “**Purchaser’s Solicitors**”) within 5 days of being served with a copy of this Amended and Restated Vesting Order.
5. The closing of the Transaction shall be effected in accordance with the terms of the Purchase Contract and upon such trust conditions as may be agreed upon between the solicitors for the Receiver (the “**Receiver’s Solicitors**”) and the Purchaser’s Solicitors.
6. The closing date for the Transaction shall be ●, or such other dates as may be agreed upon by the Purchaser and the Receiver (the “**Closing Date**”). There shall be an adjustment of taxes on the Closing Date.
7. Upon the delivery of a certified copy of this Amended and Restated Vesting Order to the Registrar of the South Alberta Land Titles Office (the “**Registrar**”) and a written request from the Receiver’s Solicitors to do so, the Registrar shall:
  - (a) cancel certificate of title number 091 368 709 +● to the Unit (the “**Old Title**”);
  - (b) issue a new certificate of title to the Unit in the name of the Purchaser or his/her nominee (the “**New Title**”), which shall (subject to paragraphs 7(e) and 7(f) of this Amended and Restated Vesting Order) include only the encumbrances listed in Schedule “A” to this Amended and Restated Vesting Order (collectively, the “**Permitted Encumbrances**”);

- (c) discharge any and all of the encumbrances from the New Title that are listed in Schedule “B” to this Amended and Restated Vesting Order (collectively, the “**Listed Encumbrances**”);
  - (d) discharge any and all encumbrances registered on the New Title on or after October 5, 2010 (collectively, the “**Subsequent Encumbrances**” or, when reference is being made to the Listed Encumbrances and the Subsequent Encumbrances collectively, the “**Discharged Encumbrances**”);
  - (e) register a copy of this Amended and Restated Vesting Order on the New Title; and
  - (f) register any mortgage financing obtained by the Purchaser, or any other interests requested by the Purchaser, on the New Title.
8. The Registrar shall perform the steps specified in paragraph 7 of this Amended and Restated Vesting Order:
- (a) in the order specified in paragraph 7 of this Amended and Restated Vesting Order; and,
  - (b) notwithstanding the requirements of section 191 of the *Land Titles Act*, R.S.A. 2000, c. L – 4 (the “**LTA**”).

#### **VESTING OF TITLE TO THE UNIT**

9. Upon the Registrar issuing a certified copy of the New Title in accordance with paragraph 7(b) of this Order all right, title, interest, estate and equity of redemption of PSL, if any, and any persons claiming by, through or under PSL, in and to the Unit shall vest absolutely in the Purchaser free and clear of and from all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Receivership Order or by any other Order(s) in

these or any other proceedings and (b) the Discharged Encumbrances (all of which are collectively referred to as the “**Encumbrances**”, which term shall include the Claims but shall not include the Permitted Encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Unit are hereby expunged and discharged as against the Unit.

#### **TRANSFER OF MC LLP DEPOSIT FUNDS**

10. Upon the Register completing the steps identified in paragraph 7 of this Amended and Restated Vesting Order, the Register shall forthwith make available to the Receiver’s Solicitors a certified copy of the New Title.
11. Upon receipt of a certified copy of the New Title from the Receiver’s Solicitors, the law firm of McLeod and Company LLP (“**MC LLP**”) (Attention: Robin Lockhurst) shall forthwith, and in any event within three days of receipt of the certified copy of the New Title from the Receiver’s Solicitors, provide the Receiver’s Solicitors with all deposit funds (the “**Deposit Funds**”) if any, that are currently held by MC LLP pursuant to the Purchase Contract.

#### **AMENITIES HOLDBACK AMOUNT**

12. The Receiver shall deduct from the Deposit Funds and all amounts paid by the Purchaser’s Solicitors to the Receiver’s Solicitors pursuant to the Purchase Contract (collectively, the “**Total Proceeds**”) the sum of \$● (the “**Amenities Holdback Amount**”), in accordance with section 14(5) of the *Condominium Property Act*, R.S.A. 2000, c. C – 22.
13. The Amenities Holdback Amount shall not be disbursed by the Receiver unless an Order allowing for a disbursement of the Amenities Holdback Amount is issued by this Court.

#### **HOLDING OF THE NET PROCEEDS**

14. The Receiver shall hold the Total Proceeds, less the Amenities Holdback Amount (the “**Net Proceeds**”) pursuant to and in accordance with the terms of this Amended and Restated Vesting Order.



15. Upon the vesting of title to the Unit in the Purchaser pursuant to and in accordance with paragraph 9 of this Amended and Restated Vesting Order, the Net Proceeds shall stand in the place and stead of the Unit and all of the Encumbrances shall attach to the Net Proceeds with the same priority that the Encumbrances had to the Unit immediately prior to the sale of the Unit, as if the Unit had not been sold and remained in the possession and control of PSL.
16. The Net Proceeds shall not be disbursed by the Receiver unless an Order allowing for a disbursement of the Net Proceeds is issued by this Court.

#### **FEES ASSOCIATED WITH THE ISSUANCE OF THE NEW TITLE**

17. All costs, fees and disbursements associated with the steps outlined in paragraph 7 of this Amended and Restated Vesting Order, including the registration of any mortgage against the Unit in favour of the Purchaser's lender, shall be for the Purchaser's account.

#### **FAILURE TO CLOSE ON THE CLOSING DATE**

18. This Amended and Restated Vesting Order is made for the purposes of allowing the Receiver and the Purchaser to close the Purchase Contract and convey title to the Unit to the Purchaser pursuant to and in accordance with the Purchase Contract. Nothing herein obligates the Purchaser to close the Purchase Contract or proceed with the Transaction.
19. In the event that the Transaction does not close on the Closing Date:
  - (a) all of the Purchaser's right, title, interest, estate and equity of redemption, if any, and any persons claiming by, through or under the Purchaser, in and to the Unit are extinguished;
  - (b) the Receiver is empowered and authorized, but not obligated, to sell, convey, transfer, lease or assign the Unit to a third-party;
  - (c) MC LLP shall hold all of the Deposit Funds and shall not disburse the Deposit Funds unless on notice to the Purchaser an Order allowing for a disbursement of the Deposit Funds is issued by this Court;

- (d) except for as expressly set out in this Amended and Restated Vesting Order, all of the other rights and liabilities of the Receiver (in its capacity as Court-appointed receiver and manager of PSL) and the Purchaser under and pursuant to the Purchase Contract are preserved including, without limiting the generality of the foregoing:
- (i) the Receiver's right to claim (in its capacity as Court-appointed receiver and manager of PSL) that the Purchaser has breached the Purchase Contract, that all of the Deposit Funds and any other deposits paid by the Purchaser pursuant to the Purchase Contract are forfeited to the Receiver, that the Receiver is entitled to make a claim on any bond issued to secure the Purchaser's obligation under the Purchase Contract (the "**Bond**") and that the Purchaser is liable for all damages sustained, if any, by the Receiver (in its capacity as Court-appointed receiver and manager of PSL) for the Purchaser's breach of the Purchase Contract; and
  - (ii) the Purchaser's right to claim that PSL has breached the Purchase Contract, that the Purchaser was entitled to terminate or rescind the Purchase Contract, that any closing notices sent were improper or invalid, that the Purchaser is entitled to a return of the Deposit Funds and any other deposits paid by the Purchaser pursuant to the Purchase Contract and that PSL is liable for damages caused, including but not limited to damages caused by PSL's failure to complete amenities facilities and buildings associated with the Plan, to the Purchaser by PSL's breach of the Purchase Contract.
20. In the event that a Bond has been issued to secure the Purchaser's obligations under the Purchase Contract and the Receiver receives any funds pursuant to the Bond (the "**Bond Funds**"), the Receiver shall hold the Bond Funds and the Bond Funds shall not be disbursed by the Receiver unless on notice to the Purchaser an Order allowing for a disbursement of the Bond Funds is issued by this Court.

**SERVICE OF THIS ORDER**

21. This Amended and Restated Vesting Order shall be served on the Purchaser or on the person identified as counsel for the Purchaser on the Service List (the “**Purchaser’s Counsel of Record**”), and no other persons are entitled to be served with a copy of this Amended and Restated Vesting Order. Service of this Amended and Restated Vesting Order shall be good and sufficient:
- (a) if being served on the Purchaser’s Counsel of Record, by delivery of this Amended and Restated Vesting Order on the Purchaser’s Counsel of Record by PDF email, facsimile, rush courier or personal delivery to the office of the Purchaser’s Counsel of Record; or
  - (b) if being served on the Purchaser directly, by delivery of this Amended and Restated Vesting Order by PDF email, or by rush courier or personal delivery to the address provided by the Purchaser in the Purchase Contract or such other address as the Purchaser may provide to the Receiver.

**ENCUMBRANCES REGISTERED ON OR AFTER OCTOBER 5, 2010**

22. On the day before the Closing Date, the Receiver shall obtain a copy of the Old Title and identify any persons who have registered Subsequent Encumbrances (collectively, the “**Subsequent Registrants**”). The Receiver shall contact each of the Subsequent Registrants and:
- (a) advise each of the Subsequent Registrants of the Receivership Order;
  - (b) provide each of the Subsequent Registrants with a copy of this Order; and
  - (c) add each of the Subsequent Registrants to the Service List.

\_\_\_\_\_  
J.C.Q.B.A.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
Clerk of the Court

**SCHEDULE "A" TO THE AMENDED AND RESTATED VESTING ORDER**  
**PERMITTED ENCUMBRANCES**

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
861 205 323	11/12/1986	UTILITY RIGHT OF WAY GRANTEE - THE CITY OF CALGARY. AS TO PORTION OR PLAN:8611330
871 142 214	10/08/1987	CAVEAT RE : SEE CAVEAT CAVEATOR - FRANCES LORRAINE REHMAN
071 476 257	24/09/2007	CAVEAT RE : RESTRICTIVE COVENANT
091 088 418	02/04/2009	UTILITY RIGHT OF WAY GRANTEE - ENMAX POWER CORPORATION.
091 368 708	07/12/2009	CAVEAT RE : RESTRICTIVE COVENANT
091 374 432	10/12/2009	RESTRICTIVE COVENANT
091 374 433	10/12/2009	RESTRICTIVE COVENANT

**SCHEDULE "B" TO THE AMENDED AND RESTATED VESTING ORDER**

**LISTED ENCUMBRANCES**

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
071 422 840	23/08/2007	MORTGAGE MORTGAGEE - FIRST CALGARY SAVINGS & CREDIT UNION LTD.
071 422 841	23/08/2007	CAVEAT RE : ASSIGNMENT OF RENTS AND LEASES CAVEATOR - FIRST CALGARY SAVINGS & CREDIT UNION LTD.
101 063 343	03/03/2010	BUILDER'S LIEN LIENOR - EMCO CORPORATION.
101 066 488	05/03/2010	BUILDER'S LIEN LIENOR - MIRCOM DISTRIBUTION (BC) INC..
101 067 936	08/03/2010	BUILDER'S LIEN LIENOR - 759450 ALBERTA LTD. 0/A INTERIOR FINISHING.
101 067 938	08/03/2010	BUILDER'S LIEN LIENOR - C. & T. REINFORCING STEEL CO. (ALBERTA) LTD..
101 069 174	09/03/2010	BUILDER'S LIEN LIENOR - ADLER FIRESTOPPING LTD..
101 071 142	10/03/2010	BUILDER'S LIEN LIENOR - COAST WHOLESALE APPLIANCES GP INC..
101 071 143	10/03/2010	BUILDER'S LIEN LIENOR - THE FINISHING CENTRE LTD..
101 072 838	11/03/2010	BUILDER'S LIEN LIENOR - MODERN INDUSTRIAL RENTALS (1978) LTD..
101 072 839	11/03/2010	BUILDER'S LIEN LIENOR - UNITED RENTALS OF CANADA, INC..
101 072 840	11/03/2010	BUILDER'S LIEN LIENOR - MORWEST CRANE & SERVICES LTD..
101 075 229	15/03/2010	BUILDER'S LIEN LIENOR - 1412705 ALBERTA LIMITED.

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
101 075 230	15/03/2010	BUILDER'S LIEN LIENOR – JMMK PLUMBING & HEATING INC..
101 075 235	15/03/2010	BUILDER'S LIEN LIENOR – GLOBAL STONE INC..
101 075 236	15/03/2010	BUILDER'S LIEN LIENOR – NOVASTONE INC..
101 076 429	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES LTD..
101 076 430	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES.
101 076 431	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES.
101 076 432	16/03/2010	BUILDER'S LIEN LIENOR – KORDICK ENTERPRISES.
101 081 785	22/03/2010	BUILDER'S LIEN LIENOR – CANNEX CONTRACTING 2000 INC..
101 085 868	24/03/2010	BUILDER'S LIEN LIENOR – NORDSTAR KITCHENS LTD..
101 088 872	26/03/2010	BUILDER'S LIEN LIENOR – DOMENICO FANELLI
101 099 050	08/04/2010	BUILDER'S LIEN LIENOR – DISTINCTIVE FLOORS LTD..
101 100 273	08/04/2010	BUILDER'S LIEN LIENOR – RIDGELINE SHEET METAL INC..
101 100 274	08/04/2010	ORDER IN FAVOUR OF – DELOITTE & TOUCHE INC..
101 210 310	15/07/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101069174
101 230 491	04/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101072840
101 232 253	06/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075229
101 232 254	06/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101063343
101 235 115	09/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101085868

<b>REGISTRATION NUMBER</b>	<b>DATE (D/M/Y)</b>	<b>PARTICULARS</b>
101 236 589	10/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101066488
101 243 365	17/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101099050
101 244 766	17/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101072839
101 250 899	23/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101067938
101 256 920	27/08/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101067936
101 261 640	01/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101081785
101 269 084	09/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075230
101 269 130	09/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075236
101 269 242	09/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101075235
101 281 039	21/09/2010	CERTIFICATE OF LIS PENDENS AFFECTS INSTRUMENT: 101088872
101 288 123	28/09/2010	CERTIFICATE OF LIS PENDENS BY – ON TRACK EXCAVATING LTD.

**ACTION NO: 1001-03215**

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**IN THE COURT OF QUEEN'S BENCH  
OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

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**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA  
and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

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**AMENDED AND RESTATED VESTING  
ORDER  
(Re: Purchase by ●)**

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**OSLER, HOSKIN & HARCOURT LLP**  
TransCanada Tower  
450 - 1<sup>st</sup> Street, S.W. - Suite 2500,  
Calgary, Alberta T2P 5H1

Christa Nicholson  
Telephone: (403) 260-7025  
Facsimile: (403) 260-7024  
File: 1112189



**SCHEDULE "F" TO THE NOTICE OF MOTION, DATED OCTOBER 12, 2010**

**ACTION NO. 1001-03215**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.  
and DELOITTE & TOUCHE LLP**

**Defendants by Counterclaim**

BEFORE THE HONOURABLE	)	AT THE COURTHOUSE, IN THE CITY
MADAM JUSTICE A. KENT	)	OF CALGARY, IN THE PROVINCE OF
IN CHAMBERS	)	ALBERTA, ON TUESDAY, THE 12th
	)	DAY OF OCTOBER, 2010

**OCTOBER 12 CLOSING PROCESS ORDER**

**UPON** the application of Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation ("PDC") and Perera Shawnee Ltd. ("PSL", or when reference is being made to PDC and PSL collectively, the "Debtors"), and not in its personal capacity (the "Receiver"); **AND UPON** noting the Order issued by Madam Justice A. Kent on March 3, 2010 (the "Receivership Order"); **AND UPON** noting the Affidavit of Service of ●, sworn ● (the "Affidavit of Service"); **AND UPON** reading the First

Report of the Receiver, dated July 30, 2010 (the “**First Receiver’s Report**”); AND UPON reading the Confidential Second Report of the Receiver, dated August 11, 2010 (the “**Confidential Second Receiver’s Report**”); AND UPON reading the Third Report of the Receiver, dated October 7, 2010 (the “**Third Receiver’s Report**”); AND UPON reading the Confidential Fourth Report of the Receiver, dated October 7, 2010 (the “**Confidential Fourth Receiver’s Report**”); AND UPON hearing from counsel for the Receiver and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for service of this Notice of Motion, dated October 12, 2010 (the “**Motion**”), and the Third Receiver’s Report is abridged if necessary, the Motion is properly returnable today, service of the Motion and the Third Receiver’s Report on the persons listed in Schedule “**G**” to the Motion (collectively, the “**Service List**”) in the manner described in the Affidavit of Service is good and sufficient and no persons other than those on the Service List are entitled to notice of the Motion or service of the Third Receiver’s Report.
2. The Clerk of the Court of Queen’s Bench of Alberta (the “**Clerk**”) is hereby directed, upon receipt of a letter in the form attached as Schedule “**A**” to this Order from the solicitors for the Receiver (the “**Clerk’s Letter**”), to issue vesting orders, substantially in the form attached as Schedule “**B**” to the Motion (the “**October 12 Vesting Order**”), save and except for paragraph 1 of the October 12 Vesting Order, in order to effect the closing of any purchase contracts that the Receiver has or may enter into with any persons for the purchase of units in Condominium Plan Number 0915321 (the “**Plan**”).
3. Service of this Order by email, facsimile, registered mail or personal delivery to the persons listed on the Service List shall constitute good and sufficient service of this Order, and that no persons other than those listed on the Service List are entitled to be served with a copy of this Order.

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J.C.Q.B.A.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

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Clerk of the Court

**SCHEDULE "A" TO THE OCTOBER 12 CLOSING PROCESS ORDER**

**[Date, Month, Year]**

Clerk of the Court of Queen's Bench of Alberta  
Calgary Courts Centre,  
601 - 5 Street SW,  
Calgary, AB T2P 5P7

Dear Sir or Madam:

**Re: Deloitte and Touche Inc. (the "Receiver"), Perera Shawnee Ltd. ("PSL") and Perera Development Corporation ("PDC", or when reference is being made to PSL and PDC collectively, the "Debtors")**

**Court of Queen's Bench (the "Court") Action No. 1001-03215 (the "Receivership Proceedings")**

We are the solicitors for the Receiver. The Receiver was appointed as receiver of the Debtors pursuant to an Order issued by the Honourable Madam Justice A. Kent on March 3, 2010 (the "**Receivership Order**").

On October 12, 2010, the Honourable Madam Justice A. Kent issued a series of orders in the Receivership Proceedings, including a closing process order (the "**October 12 Closing Process Order**"). A copy of the October 12 Closing Process Order is enclosed with this correspondence.

On ●, 2010, the Receiver entered into a purchaser contract (the "**Purchase Contract**") with ● (the "**Purchaser**") for the purchase of a unit in Condominium Plan 0915321 (the "**Plan**"). On ● the Receiver issued a closing notice to the Purchaser pursuant to the Purchase Contract.

The October 12 Closing Process Order directs that, upon the receipt of this letter, the Clerk of the Court of Queen's Bench of Alberta shall issue a vesting order that is substantially in the form attached as Schedule "**B**" to the Notice of Motion filed by the Receiver, dated October 12, 2010 (the "**October 12 Vesting Order**"), save and except for paragraph one of the October 12 Vesting Order. We have enclosed a completed October 12 Vesting Order in respect of the Purchase Contract (the "**Enclosed Order**"), and we confirm that the Enclosed Order is substantially in the form as the October 12 Vesting Order save and except for paragraph one of the October 12 Vesting Order. Please issue the Enclosed Order in accordance with the direction contained in the Closing Process Order.

Yours Truly,

●

**ACTION NO: 1001-03215**

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**IN THE COURT OF QUEEN'S BENCH  
OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

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**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA  
and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

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**OCTOBER 12 CLOSING PROCESS  
ORDER**

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**OSLER, HOSKIN & HARCOURT LLP**

TransCanada Tower  
450 - 1<sup>st</sup> Street, S.W. - Suite 2500,  
Calgary, Alberta T2P 5H1

Christa Nicholson  
Telephone: (403) 260-7025  
Facsimile: (403) 260-7024  
File: 1112189

**SCHEDULE "G" TO THE NOTICE OF MOTION, DATED OCTOBER 12, 2010**

**ACTION NO. 1001-03215**

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**

**Plaintiff**

**and**

**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**Defendants**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA**

**Plaintiffs by Counterclaim**

**and**

**FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE  
LLP**

**Defendants by Counterclaim**

**SERVICE LIST**

<i>Counsel/Party</i>	<i>Telephone</i>	<i>Fax</i>	<i>Representing</i>
<b>BORDEN LADNER GERVAIS LLP</b> 1900 Centennial Place 520 3 <sup>rd</sup> Avenue S.W. Calgary, Alberta T2P 0R3  Travis Lysak tlysak@blgcanada.com  Robert Stemp rstemp@blgcanada.com  Jeffrey D. Vallis, Q.C. jvallis@blgcanada.com	   (403) 232-9719  (403) 232-9780  (403) 232-9404	   (403) 266-1395	   First Calgary Savings and Credit Union Ltd.   OZZ Electric Inc. Quest Window Systems Inc.
<b>OSLER, HOSKIN &amp; HARCOURT LLP</b> Suite 2500, TransCanada Tower 450 – 1 <sup>st</sup> Street S.W. Calgary, Alberta T2P 5H1  Christa Nicholson cnicholson@osler.com	   (403) 260-7025	   (403) 260-7024	   Deloitte & Touche Inc.

<b><i>Counsel/Party</i></b>	<b><i>Telephone</i></b>	<b><i>Fax</i></b>	<b><i>Representing</i></b>
<b>DELOITTE &amp; TOUCHE INC.</b> 3000 Scotia Centre 700 – 2 <sup>nd</sup> Street SW Calgary, Alberta T2R 1J8  Greg Stevens gstevens@deloitte.ca  Victor Kroeger vkroeger@deloitte.ca  David Adams davidadams@deloitte.ca	(403) 267-1700	(403) 264 2871	Receiver of Debtors
<b>DELOITTE &amp; TOUCHE LLP</b> 2000 Manulife Place 10180 – 101 Street Edmonton, Alberta T5J 4E4			
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Action No.: 1001-03215

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**IN THE COURT OF QUEEN'S BENCH  
OF ALBERTA**

**JUDICIAL DISTRICT OF CALGARY**

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**BETWEEN:**

**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD.**

**PLAINTIFF**

**and**

**PERERA SHAWNEE LTD., PERERA  
DEVELOPMENT CORPORATION, DON L.  
PERERA and SHIRANIE M. PERERA**

**DEFENDANTS**

**AND BETWEEN:**

**PERERA SHAWNEE LTD., DON L.  
PERERA and SHIRANIE M. PERERA**

**PLAINTIFFS BY COUNTERCLAIM**

**and**

**FIRST CALGARY SAVINGS & CREDIT  
UNION LTD. and DELOITTE & TOUCHE  
LLP**

**DEFENDANTS BY COUNTERCLAIM**

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**THIRD RECEIVER'S REPORT TO  
THE COURT SUBMITTED BY  
DELOITTE & TOUCHE INC.**

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CLERK OF THE COURT

OCT - 7 2010

CALGARY, ALBERTA