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WORKING GROUP ON LAWYERS AND REAL ESTATE

on **August 15, 2014 for**

**CONSULTATION PURPOSES**.

 **Condo buyers RETAINER**

Dear Client,

Re: Your purchase of a resale condominium at (address)

**Introduction**

Thank you for retaining me/us to act as your lawyer in your purchase. This retainer is based on the understanding that the agreement of purchase and sale between you and the Sellers (the “APS”) is on the most recent version of the standard Ontario Real Estate Association (“OREA”) Agreement of Purchase and Sale form.

The purchase of a condominium unit raises many complex issues which must be addressed. The documentation is lengthy and much of it is written in a manner which requires legal interpretation. It is the job of your lawyer to assist in the interpretation of the documents. It is also the job of your lawyer to conduct the investigations you require and to undertake the tasks necessary to complete the transaction on your behalf.

To assist both you and your lawyer, the Working Group on Lawyers and Real Estate (hereinafter referred to as the “Working Group”) has prepared a chart of the tasks which may be undertaken by lawyers (hereinafter referred to as the “Chart”) and a description of those tasks. Buyers are encouraged to look at the Chart in detail and, if necessary, question the lawyer about the tasks to be performed.

The active participation of Buyers and lawyers in bringing the transaction to completion is essential. Your lawyer must know what you expect in the purchase of the condominium unit.

**Work to be undertaken**

It is important that you as a buyer identify the tasks that your lawyer will perform on your behalf as part of the lawyer’s basic retainer. The Chart, which may also be found at [www.lawyersworkinggroup.com](http://www.lawyersworkinggroup.com)/Chart, identifies the tasks to be performed and others which will not be undertaken except by specific request from you. You should review the Chart and consider whether or not additional services are required from your lawyer. A guide, which can be found at [www.lawyersworkinggroup.com](http://www.lawyersworkinggroup.com)/Buyers’CondominiumGuide, provides an explanation of each of the items of the Chart. This will include a brief review of the most important documents relating to the condominium and to the present purchase. A more detailed review will be beyond the lawyer’s basic retainer and will only be performed on your specific instructions.

**Joint Retainer**

Lawyers are not permitted to act for more than one person in a transaction (including a mortgage lender), except in limited circumstances. Buyers may be asked to give written consent for the lawyer to act for all buyers and mortgage lenders. If a conflict arises among the parties to the transaction the lawyer may not be permitted to act for any of them. Although all information your lawyer receives is confidential, no information may be withheld from any joint clients.

**Identity and Purchaser Information**

We will need to make copies of two pieces of identification from each buyer. One of them must contain a photo of the person being identified. Please note that we are not permitted to make copies of Ontario Health Cards.

We attach a “Buyers’ Information Form” which we ask you to fill in and return to us as soon as possible.

**Buyers’ Condominium Guide**

The Working Group has prepared a guide for your reference. It provides explanatory information relating to the items set out in the Chart. The guide can be found at [www.lawyersworkinggroup.com/Buyers’CondominiumGuide](http://www.lawyersworkinggroup.com/Buyers%27CondominiumGuide).

**Fees and Disbursements**

Our fee will be based on the standard services identified in the Chart. You may wish us to perform some of the optional services shown on the Chart. These services will be at an additional cost which we will be pleased to discuss with you.

**Disbursements**

In addition to the fees described in the paragraph above, you will be billed for amounts paid by us on your behalf in the course of completing the transaction. In most cases, disbursements will range between $xx.xx to $xx.xx.[[1]](#footnote-1) A standard condominium transaction may include any of the following disbursements: title search, off-title searches (e.g. taxes, gas and water), status certificate, copies, faxes, long-distance phone calls, courier costs, certified cheque/bank draft fees, title insurance, execution searches and document registration fees.

In addition you will be responsible for closing adjustments between you and the Sellers which will be reviewed with you once we receive the Statement of Adjustments from the Sellers’ lawyer. Every transaction is unique and as a result, there may be additional fees charged.

**Land Transfer Taxes**

In addition to the foregoing, you will be required to pay Land Transfer Tax to the Province of Ontario (& the City of Toronto) on closing. Based on your purchase price it is estimated that the Land Transfer Tax payable to the Province of Ontario will be $xx.xx (and to the City of Toronto will be $xx.xx). You might be eligible for a rebate of the Land Transfer Tax. A land transfer tax calculator is available at <http://lawyersworkinggroup.com/FeeSchedule.html>.

**Money Required on Closing**

In order to complete the transaction on the closing day, we will require enough money to pay the balance due on closing, our fees, disbursements and Land Transfer Taxes. Our office will contact you shortly before closing to indicate the amount required from you. We ask that you provide us with one amount by certified cheque or bank draft, which will be the difference between the total required as described above and the net amount received from your Lender. Due to banking requirements, we may request your funds 8-10 days prior to the closing. A full explanation of all amounts will be provided when you attend our offices to sign the closing documents and we can answer any question you may have.

**Keys/Possession**

It is important to remember, that although we attempt to have the keys available to you as soon as possible on the day of closing, the Sellers have until 5:00 p.m. to complete this transaction. Therefore, as you cannot be assured of receiving the keys to your new home until the end of the day, please make moving arrangements accordingly.

Normally you will expect your home to be vacant when the transaction is closed so that you can move in immediately. The Sellers may not have moved out by the time you intend to move in. You should request that your real estate agent advise the Sellers of your moving schedule so that your movers will not be delayed when they arrive at the house.

**Insurance**

We recommend that Buyers seek advice of their insurance broker as to their insurance requirements. Please refer to the Buyers Guide for a full explanation of the condominium corporation’s obligations to insure. It would be helpful to the broker to provide them with the condominium’s insurance certificate and the standard unit by-law.

**Status Certificate**

We will conduct a review of the certificate and provide you with a report. You should carry out a detailed examination of the certificate as described in the Buyers Guide. It is important that you review the certificate and accompanying documents as soon as possible. If you require any further explanation please contact us.

**Document Registration Agreement**

This transaction is to be completed under the electronic land registration system (e-reg®). In e-reg documents are created, submitted and maintained in electronic form. The closing funds, keys and other documents (“Requisite Deliveries”) must be exchanged by the lawyers in advance of registration of the closing documents. The most recent version of the APS obligates your lawyer to enter into and close your transaction under the terms of a Document Registration Agreement (“DRA”) with the Seller’s lawyer, which authorizes that exchange and obliges both lawyers to hold the Requisite Deliveries in escrow until the transaction is completed.

You will be asked to sign an acknowledgment and direction, which will authorize the use of the DRA and confirm the contents of the electronic documents. It will also confirm that you understand that by entering into the DRA, our firm will be incurring professional obligations in accordance with its terms

**Title Investigation**

Prior to the title search/requisition date set out in the APS, we will perform a title search for your property which we will review with you.   The title search will show plans for your unit(s) plus documents registered against title that may affect your ownership of the property.

We will write to the Seller’s lawyer to request the appropriate action to be taken to rectify any problematic items.

**Statement of adjustments**

The statement of adjustments is the balance sheet of the transaction that will set out all debits and credits for the buyers and sellers e.g. the deposit, an adjustment for taxes, common expenses and any other items that may be required to be adjusted on closing.

The balance due to the seller is required on the closing date in order to complete the transaction.

**Mortgage**

If you are obtaining financing for the property, these funds will be sent directly to our office on closing. You will need to ensure that you have provided all documentation to the mortgage broker or banker well in advance of closing so that there are no delays in closing your transaction. We will receive instructions directly from the lender and prepare the mortgage both on your behalf and that of the lender. We will advise you if there are any outstanding conditions that you will need to satisfy and the net proceeds that we will be receiving from the lender.

**Utilities**

You are responsible for setting up new accounts for your utilities and we suggest that you make such efforts in advance of closing to ensure a smooth transition of ownership.

If required, we will provide a copy of the transfer after closing but this should not be necessary to set up such services in advance.

**Title Insurance**

We recommend that all purchasers of any real estate obtain title insurance and recommend further reading as set out in our Buyers’ Condominium Guide on this topic.

**Privacy/Email**

In order to complete your purchase it will be necessary for us to collect and disclose certain personal information. Only information necessary for the conduct of the transaction will be collected and disclosed. If you have any concerns about privacy of your personal information please discuss them with us at your earliest convenience. For a more complete discussion of our privacy policy you may obtain or review a full copy at our offices or on our website.

Please note that we cannot guarantee to the privacy of any email correspondence and you agree to this in the event you wish to communicate via email.

Thanks you for entrusting this matter to us.

Your lawyer

1. Highlighted parts may be kept or deleted by the lawyer when completing the letter. [↑](#footnote-ref-1)