



## Restructuring • Insolvency • Consulting

November 29, 2018

**TO:** Purchaser

**RE:** Notice to Purchaser of Condominium Unit at *The Connolly* re: Deposit Funds Held in Trust

On June 22, 2018, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) appointed msi Spergel Inc. as receiver (the “**Receiver**”) of all the assets, undertakings and properties of 2203284 Ontario Inc. (“**220**”), including the lands municipally known as 98 James Street South, Hamilton, Ontario (the “**Lands**”), **whereupon** 220 was to develop the condominium project known as “*The Connolly*” (the “**Project**”).

On October 5, 2018 the Receiver completed a Court approved sale of the Lands. As a result of the sale, 220 no longer has any ownership interest in the Lands (and as a result, the Project) and will not be in a position to satisfy its obligations to purchasers with a valid and enforceable purchase agreement. Please note that the purchaser of the Lands did not take an assignment of the agreements of purchase and sale for the Project condominium units. Accordingly, the Receiver is now able to commence a process with respect to the deposits paid by purchasers of a condominium unit at the Project.

On May 16, 2018, the Court granted a further order, amended on August 29, 2018, and further amended on October 12, 2018, prescribing the process by which the identity and status of all deposit claims of purchasers, with a valid and enforceable agreement of purchase and sale for the purchase of a condominium unit from 220 (“**Deposit Claim**”), was established for the purposes of the receivership proceedings (the “**Deposit Claims Procedure**”), including a provision requiring Deposit Claim forms to be filed with the Receiver no later than 5:00 PM (Toronto Time) on November 30, 2018 (the “**Claims Bar Date**”).

Due to implications to the deposit claims process resulting from the Canada Post strike that commenced on October 22, 2018, the Receiver filed an application with the Court to extend the November 30, 2018 filing deadline (the “**Claims Bar Date**”). On November 29, 2018 the Court granted a further order amending the Deposit Claims Procedure Order to extend the Claims Bar Date to January 31, 2019 in order to give ample opportunity to all potential deposit claimants to file their deposit claims with the Receiver. A copy of the November 29, 2018 Second Further Fresh As Amended Deposit Claims Procedure Order may be accessed online at <http://www.spergelcorporate.ca/active-files-list/2203284-ontario-inc/>.

Accordingly, the Receiver will be required to wait until the expiry of the Claims Bar Date before seeking the approval of Tarion Warranty Corporation and the Guarantee Company of North America with respect to the release of funds to pay proven deposit claims. We will endeavor to process payments as quickly as possible and in accordance with the Court’s order, anticipate being able to start making payments beginning on or shortly after February 18, 2019.

Please review the provisions of the Second Further Fresh As Amended Deposit Claims Procedure Order relating to payments made in respect of a Deposit Claim. A copy of the Deposit Claims Procedure Order may be accessed online at <http://www.spergelcorporate.ca/active-files-list/2203284-ontario-inc/>.

Capitalized terms not defined herein have the meaning given to those terms in the Second Further Fresh As Amended Deposit Claims Procedure Order.

If you are a Purchaser and believe that you have a specific claim to the Deposit Funds, you are requested to submit your Deposit Claim Form to the Receiver as soon as possible **and no later than on or before 5:00 PM (Toronto Time) on January 31, 2019** in accordance with the Second Further Fresh As Amended Deposit Claims Procedure Order. The Receiver's contact information is below:

msi Spergel Inc., Court appointed receiver of 2203284 Ontario Inc.  
505 Consumers Road, Suite 200  
Toronto, ON M2J 4V8  
Fax No.: 416-494-7199  
Email: [Theconnolly@spergel.ca](mailto:Theconnolly@spergel.ca)

**If you are a Purchaser, and you do not submit a Deposit Claim Form to the Receiver on or before the Claims Bar Date, your Deposit Trust Claim will be forever barred and extinguished.**

Note that if the Purchaser is comprised of more than one named individual, each individual is required to execute the Deposit Claim Form. The Deposit Claim Form should indicate only one address for future correspondence.

Please also note that the Receiver will require the delivery of an executed Certificate of Identity from each named purchaser and executed Receipt prior to the release of funds on account of a Deposit Trust Claim. We have enclosed a Certificate of Identity for completion by each named purchaser.

If you have any questions or concerns, please do not hesitate to contact the Receiver attention: Frieda Kanaris at (416) 498 4309 or via email [fkanaris@spergel.ca](mailto:fkanaris@spergel.ca).

**msi Spergel Inc.**

Court-appointed Receiver of  
2203284 Ontario Inc.,

Per:



Deborah Hornbostel, CPA, CA, CIRP, LIT, CFE  
Senior Principal

Deposit Claim Form

**IN THE MATTER OF THE RECEIVERSHIP OF 2203284 ONTARIO INC. ("220")**

Regarding the claim of \_\_\_\_\_  
(the "**Purchaser**"). All notices or correspondence regarding this claim are to be forwarded to the Purchaser at the following address:

\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Email address: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

**(All future correspondence will be delivered to the designated email address unless the Purchaser specifically requests hard copies by checking the circle below)**

Please provide hard copies of correspondence to the address above.

I \_\_\_\_\_

(name of Purchaser(s), of \_\_\_\_\_

(City, Province or State), do hereby certify that:

1. The Purchaser has received a Claims Package from the Receiver, and wishes to assert a Deposit Claim.
2. I am the Purchaser/one of the Purchasers.

**OR**

I am \_\_\_\_\_ (position/title) of the Purchaser:

3. I have knowledge of all the circumstances connected with the Deposit Claim referred to in this Deposit Claim Form.
4. A copy of the agreement of purchase and sale, including all amendments, exhibits, addendums or modifications, entered into between the Purchaser and 220 is attached as **Schedule "A"** herein (the "**Purchase Agreement**").

5. The Purchaser states that it has delivered a Deposit Claim to 220 in the total sum of \$\_\_\_\_\_ (CDN) as evidenced by the proof of the deposit amount(s) paid attached as **Schedule "B"** herein (by way of a cancelled cheque, or other form of proof from a financial institution to confirm that a deposit was paid by the Purchaser named on the Purchase Agreement) and the other proof attached hereto.
6. The Purchaser acknowledges and agrees that in each case where the Receiver makes a payment in relation to a Proven Deposit Claim in accordance with the Deposit Claims Procedure, the Purchaser (including its heirs, executors and assigns) shall be: (a) deemed to absolutely and unconditionally remise, release, acquit and forever discharge 220, Tarion and the Guarantee Co. for any Deposit Claims, claims for return of Deposit or other claims or funds paid on account of the purchase of a Unit in the Project, including interest thereon; and (b) forever barred, estopped and enjoined from making, asserting or enforcing any such claim for a Deposit Claim or other funds paid to SR Law on account of the purchase of a Unit in the Project including interest thereon against 220, Tarion or the Guarantee Co. (in the case of Tarion, only to the extent that such payment is in the full amount of the Proven Deposit Claim) and all such claims shall be forever extinguished as against all such parties.
7. All capitalized terms not defined herein have the meaning given to such terms in the Deposit Claims Procedure Order.
8. This Deposit Claim Form must be received by the Receiver **by no later than 5:00 p.m. (Toronto Time) on January 31, 2019** by either registered mail, personal delivery, courier, email (in PDF format) or facsimile transmission at the following address:

The Receiver:

msi Spergel Inc., Court appointed receiver of 2203284 Ontario Inc.  
505 Consumers Road, Suite 200  
Toronto, ON M2J 4V8  
Fax No.: 416-494-7199  
Email: [Theconnolly@spergel.ca](mailto:Theconnolly@spergel.ca)

**Failure to file your Deposit Claim Form and required documentation as directed above will result in your Deposit Claim being forever barred and you will be prohibited from making or enforcing a Deposit Claim against 220, Tarion and the Guarantee Co. and shall not be entitled to further notice or distribution, if any, and shall not be entitled to participate in these proceedings.**

**Individual Purchaser:**

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Purchaser's Signature

\_\_\_\_\_  
Name of Witness (Print)

\_\_\_\_\_  
Name of Purchaser (Print)

**Individual Purchaser:**

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Purchaser's Signature

\_\_\_\_\_  
Name of Witness (Print)

\_\_\_\_\_  
Name of Purchaser (Print)

**Individual Purchaser:**

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Purchaser's Signature

\_\_\_\_\_  
Name of Witness (Print)

\_\_\_\_\_  
Name of Purchaser (Print)

**Corporate Purchaser:**

\_\_\_\_\_  
Name of Purchaser

Per:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Signature of Authorized Signing Officer

\_\_\_\_\_  
Name of Witness (Print)

\_\_\_\_\_  
Name of Authorized Signing Officer (Print)

\_\_\_\_\_  
Title

**Purchaser Certificate of Identity**

**TO: MSI SPERGEL INC., in its capacity as Court appointed receiver of 2203284 Ontario Inc.**

**AND TO: THE GUARANTEE COMPANY OF NORTH AMERICA (the "Guarantee Co.")**

**AND TO: TARION WARRANTY CORPORATION ("Tarion")**

**RE:** Return of Deposit Monies in the amount of \$ \_\_\_\_\_ (the "Deposit Monies").  
Execution of the Acknowledgement of Receipt of Funds (the "Receipt")  
**Purchaser:** \_\_\_\_\_ (the "Purchaser")  
**Project:** *The Connolly*  
**Property:** Unit # \_\_\_\_\_, Level # \_\_\_\_\_ being Residential Dwelling  
Suite # \_\_\_\_\_

I \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 hereby provide the following documentation to prove my identity:

- 1) Insert the information for one piece of Canadian government issued **photo identification** (that is valid, current and not-expired) that has the first name and surname that matches the first name and surname of the Purchaser as contained in the Purchase Agreement:

ID Type: \_\_\_\_\_ ID No. \_\_\_\_\_

**AND**

- 2) One piece of Canadian government issued identification (that is valid, current and not- expired) that:
  - a. has the first name and surname that matches the first name and surname of the Purchaser as contained in the Purchase Agreement; and
  - b. that provides the Purchaser's current address.

ID Type: \_\_\_\_\_ ID No. \_\_\_\_\_

**Copies of the above noted pieces of identification are attached hereto.**

I warrant and represent that the above noted pieces of identification are not bogus, forged, tampered with, altered, falsified or counterfeit and confirm that I am one and the same person that has executed the Receipt.

This Certificate is delivered pursuant to the Deposit Claims Procedure set out in the Order of the Ontario Superior Court of Justice dated May 16, 2018, amended on August 29, 2018, and further amended on October 12, 2018, and further amended on November 29, 2019 in Court File No. CV-17-11827- 00CL.

I understand that, upon receipt of the payment from the Receiver pursuant to the Proven Deposit Claim, the Purchaser (including its heirs, executors and assigns) shall be:

1. deemed to absolutely and unconditionally remise, release, acquit and forever discharge 220, Tarion and the Guarantee Co. (in the case of Tarion, only to the extent that such payment is in the full amount of the Proven Deposit Claim) in respect of a Deposit Claim; and
2. be forever barred, estoppel and enjoined from making, asserting or enforcing any such Deposit Claim against 220, Tarion or the Guarantee Co. (in the case of Tarion, only to the extent that such payment is in the full amount of the Proven Deposit Claim) and all such claims shall be forever extinguished as against all such parties.

All capitalized terms not defined herein have the meaning given to such terms in the Deposit Claims Procedure Order.

**SIGNED, SEALED AND DELIVERED**

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Purchaser's Signature

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Purchaser's Name (Please Print)