

Agreement of Purchase and Sale Commercial

Form 500

for use in the Province of Ontario

If you use more than 1 Schedule page, change the total page # to include it.

This Agreement of Purchase and Sale dated this 7th day of May, 2018

BUYER, Zevest Development Corporation, agrees to purchase from
(Full legal names of all Buyers)

SELLER, K-W Badminton Club Inc., the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address 69 Agnes Street, Kitchener, ON N2G 2E9

fronting on the side of

in the

and having a frontage of more or less by a depth of more or less

and legally described as See Schedule A

..... (the "property")
(Legal description of land including easements not described elsewhere)

PURCHASE PRICE:

Dollars (CDN\$) 650,000.00

Six Hundred and Fifty Thousand Dollars

DEPOSIT: Buyer submits See Schedule A
(Herewith/Upon Acceptance/as otherwise described in this Agreement)

..... Dollars (CDN\$)

by negotiable cheque payable to Gowling WLG (Canada) LLP "In Trust" "Deposit Holder"
to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A attached hereto form(s) part of this Agreement.

1. IRREVOCABILITY: This offer shall be irrevocable by Seller until 5:00 a.m. 8th on May the 8th day of May, 2018, after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. COMPLETION DATE: This Agreement shall be completed by no later than 6:00 p.m. on the day of
See Schedule A, 20..... Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S):

[Signature]

INITIALS OF SELLER(S):

[Signature]



The trademarks REALTOR®, REALTORS® and the REALTOR® logo are controlled by The Canadian Real Estate Association (CREA) and identify real estate professionals who are members of CREA. Used under license.

© 2018, Ontario Real Estate Association ("OREA"). All rights reserved. This form was developed by OREA for the use and reproduction by its members and licensees only. Any other use or reproduction is prohibited except with prior written consent of OREA. Do not alter when printing or reproducing the standard pre-set portion. OREA bears no liability for your use of this form.

- 7
3. **NOTICES:** ~~The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.~~ Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.:
(For delivery of Documents to Seller)

FAX No.:
(For delivery of Documents to Buyer)

Email Address:
(For delivery of Documents to Seller)

Email Address:
(For delivery of Documents to Buyer)

4. **CHATELS INCLUDED:**

To be agreed to by the parties hereto in writing prior to the expiry of the Due Diligence Period as set out in Schedule A.

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

5. **FIXTURES EXCLUDED:**

To be agreed to by the parties hereto in writing prior to the expiry of the Due Diligence Period as set out in Schedule A.

6. **RENTAL ITEMS (Including Lease, Lease to Own):** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:

To be agreed to by the parties hereto in writing prior to the expiry of the Due Diligence Period as set out in Schedule A.

The Buyer agrees to co-operate and execute such documentation as may be required to facilitate such assumption.

7. **HST: If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be in addition to the Purchase Price.** The Seller will not collect HST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Excise Tax Act ("ETA"), together with a copy of the Buyer's ETA registration, a warranty that the Buyer shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Seller in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing, that the transaction is not subject to HST. Any HST on chattels, If applicable, is not included in the Purchase Price.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



- 8. TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the day of....., 20....., (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the property, that its present use (.....) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
- 9. FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
- 10. TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
- 11. CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
- 12. DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
- 13. INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller.
- 14. INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.

INITIALS OF BUYER(S):

7

INITIALS OF SELLERS(S):

B. A. I. P.



The trademarks REALTOR®, REALTORS® and the REALTOR® logo are controlled by The Canadian Real Estate Association (CREA) and identify real estate professionals who are members of CREA. Used under license.

© 2018, Ontario Real Estate Association ("OREA"). All rights reserved. This form was developed by OREA for the use and reproduction by its members and licensees only. Any other use or reproduction is prohibited except with prior written consent of OREA. Do not alter when printing or reproducing the standard pre-set portion. OREA bears no liability for your use of this form.

- 15. PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
- 16. DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O.1990.
- 17. RESIDENCY:** (a) Subject to (b) below, the Seller represents and warrants that the Seller is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Seller shall deliver to the Buyer a statutory declaration that Seller is not then a non-resident of Canada;
(b) provided that if the Seller is a non-resident under the non-residency provisions of the Income Tax Act, the Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate.
- 18. ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
- 19. TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
- 20. PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.
- 21. TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Large Value Transfer System.
- 22. FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O.1990 unless the spouse of the Seller has executed the consent hereinafter provided.
- 23. ~~UFFI:~~** ~~Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.~~
- 24. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.
- 25. CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
- 26. AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
- 27. TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



The trademarks REALTOR®, REALTORS® and the REALTOR® logo are controlled by The Canadian Real Estate Association (CREA) and identify real estate professionals who are members of CREA. Used under license.

© 2018, Ontario Real Estate Association ("OREA"). All rights reserved. This form was developed by OREA for the use and reproduction by its members and licensees only. Any other use or reproduction is prohibited except with prior written consent of OREA. Do not alter when printing or reproducing the standard pre-set portion. OREA bears no liability for your use of this form.

28. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:

ZEVEST DEVELOPMENT CORPORATION

(Witness)

(Buyer/Authorized Signing Officer)

(Seal)

DATE 05/7/18

(Witness)

(Buyer/Authorized Signing Officer)

(Seal)

DATE

I, the Undersigned Seller, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable); from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer.

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:

K-W BADMINTON CLUB INC.

(Witness)

(Seller/Authorized Signing Officer)

(Seal)

DATE MAY 7/18

(Witness)

(Seller/Authorized Signing Officer)

(Seal)

DATE May 7/18

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees to execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

(Witness)

(Spouse)

(Seal)

DATE

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at 1:20 a.m. p.m. this 7th day of May 2018.

(Signature of Seller or Buyer)

INFORMATION ON BROKERAGE(S)

Listing Brokerage Tel.No.(.....)

(Salesperson / Broker Name)

Co-op/Buyer Brokerage Tel.No.(.....)

(Salesperson / Broker Name)

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

(Seller)

DATE MAY 7/18

(Buyer)

DATE 05/7/18

(Seller)

DATE May 7/18

(Buyer)

DATE

Address for Service

Address for Service

Tel.No.(.....)

Tel.No.(.....)

Seller's Lawyer **Manuel Martins, Gowling WLG (Canada) LLP**

Buyer's Lawyer **Mark Schumacher**

Address **50 Queen St. N., #1020, Kitchener, ON N2H 6M2**

Address **mark@schumacherlaw.com**

Email **manuel.martins@gowlingwlg.com**

Email **31 Union St. E. Waterloo ON**

(519) 575-7542

(519) 571-7042

(519) 749-4601

(519) 571-3237

Tel.No.

FAX No.

Tel.No.

FAX No.

FOR OFFICE USE ONLY

COMMISSION TRUST AGREEMENT

To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale:

In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.

DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale.

Acknowledged by:

(Authorized to bind the Listing Brokerage)

(Authorized to bind the Co-operating Brokerage)

R The trademarks REALTOR®, REALTORS® and the REALTOR® logo are controlled by The Canadian Real Estate Association (CREA) and identify real estate professionals who are members of CREA. Used under license.

© 2018, Ontario Real Estate Association ("OREA"). All rights reserved. This form was developed by OREA for the use and reproduction by its members and licensees only. Any other use or reproduction is prohibited except with prior written consent of OREA. Do not alter when printing or reproducing the standard pre-set portion. OREA bears no liability for your use of this form.

This form is licensed for use by MANUEL AUGUSTO ALVES MARTINS only.

Schedule "A"

1. **Legal Description:**

- (a) Firstly, PT LT 18-20 PL 139 KITCHENER AS IN 249613, TOG WITH A59400 & A67037; KITCHENER, being all of PIN 22435-0059 (LT); and
- (b) Secondly, LT 4-7 PL 324 KITCHENER; PT LT 1-3, 8 PL 324 KITCHENER; PT LT 489 PL 377 KITCHENER AS IN A59400, A67037, A124232, 133535; S/T 1408759; TOG WITH A59400 & A67037, being all of PIN 22425-0010 (LT).

2. **Schedule "A" Prevails:** The terms and conditions of this Schedule "A" shall prevail if a conflict occurs with the terms and conditions of the balance of the Agreement to which it is attached and forms a part.

3. **Electronic Signatures:** The parties consent and agree to the use of electronic signatures pursuant to the Electronic Commerce Act, 2000, S.O. 2000, c. 17 as amended from time to time with respect to this Agreement and any other documents respecting this transaction.

4. **Purchase Price:**

- (a) The Purchase Price shall be paid in the following manner:
 - (i) a deposit of Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) by certified cheque (the "**First Deposit**") within five (5) Business Days after the acceptance of this Agreement, payable to the Seller's solicitor, to be held in trust pending completion or the termination of this Agreement and which shall be credited against the monies due on the Completion Date;
 - (ii) a deposit of Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) by certified cheque (the "**Second Deposit**") within five (5) Business Days after the fulfilment of the Buyer's conditions set out in sub-paragraph 5(a), payable to the Seller's solicitor, to be held in trust pending completion or the termination of this Agreement and which shall be credited against the monies due on the Completion Date; and
 - (iii) the balance of the Purchase Price shall be paid by certified cheque.
- (b) The parties hereto agreed that the Purchase Price shall be allocated between the land, building, chattels and equipment, as determined by mutual agreement of the Seller and the Buyer, prior to Closing. The parties hereto covenant and agree with each other that the allocation of the Purchase Price shall be made by them in accordance with the values ascribed as aforesaid, and that each party will file all necessary income tax returns and execute such elections and/or agreements as may be required.




5. **Conditions:**

- (a) **Buyer Due Diligence Period:** This Agreement shall be conditional for the benefit of the Buyer upon the fulfilment of the following conditions by 5:00 PM on the one hundred and twentieth (120th) day following acceptance of this Agreement (the “Due Diligence Period”):
- (i) the Buyer is satisfied, in its sole discretion, with its review of the Seller Deliveries (later defined), the overall economic viability of acquiring and developing the Property, the costs estimates for site work and development costs, and/or the status and capacity of the services (electricity, water, gas, sanitary sewer, storm water sewer and storm water management) or suitable environmental or soil conditions for the development of the Property;
 - (ii) the Buyer and the Seller have agreed upon a form of lease, on mutually agreeable terms, whereby the Seller shall lease back such part of the Property as is required to continue operation of its business at the Property (the “Leaseback”) on terms generally consistent with the following:
 - (1) the term shall expire upon the earlier of relocation pursuant to the Relocation Agreement and the closing of the transaction contemplated by the Repurchase Option;
 - (2) there shall be no base rent payable;
 - (3) the Seller shall pay as additional rent an amount equal to 27% of the real property tax, hydro and water costs of the Property (as calculated pursuant to current square footage);
 - (4) the Seller may register notice of the Leaseback on title to the Property in priority to all encumbrances;
 - (5) the Buyer shall create a separate entranceway for the areas of the Property not used by the Seller;
 - (6) the Buyer shall be responsible for all repairs and maintenance of the Property at its cost; and
 - (7) the Buyer shall provide the Seller with a minimum 30 days prior written notice of any proposed development, construction or changes to the Property.




- (iii) the Buyer and the Seller have agreed upon a form of option agreement, whereby the Seller shall have the option to re-purchase the Property (the "**Repurchase Option**") on terms generally consistent with the following:
- (1) until relocation pursuant to the Relocation Agreement, the Seller may repurchase the Property for consideration of \$2.00 in the event the Buyer is insolvent, bankrupt or in breach of this Agreement, the Leaseback or the Relocation Agreement;
 - (2) the Seller's lawyer shall hold in trust a fully executed deed/transfer of land for the Property from Buyer to Seller; and
 - (3) the Seller may register notice of the Repurchase Option on title to the Property in priority to all encumbrances;
- (iv) the Buyer and the Seller have agreed upon a form of relocation agreement (the "**Relocation Agreement**") on terms generally consistent with the following:
- (1) the Buyer shall have a five (5) year period commencing on the Completion Date to source, acquire and/or construct a facility (or part thereof) to be transferred to the Seller for no consideration and free and clear of all encumbrances (the "**New Facility**");
 - (2) the New Facility must be suitable for the continued operation of the Seller's business and acceptable to the Seller in its sole discretion, without limiting the generality of the foregoing, it shall accommodate Ten (10) regulation badminton courts and all ancillary amenities required by the Seller (including, without limitation, lounge area, kitchen, locker room, viewing areas), be within Five (5) kilometres of the Property, have ceiling heights (within the badminton court areas) of not less than thirty (30) feet, and provide on-site free parking for at least 75 vehicles; and
 - (3) the Buyer shall be responsible for all costs and expenses in relation to the acquisition and/or construction of the New Facility.
- (v) the Buyer and the Seller have agreed upon a form of Charge/Mortgage (the "**Charge**") on terms generally consistent with the following:
- (1) the Charge shall be collateral security for the obligations of the Buyer to the Seller pursuant to this Agreement, the Lease and the Relocation Agreement, in a principal amount agreed between the parties that represents the cost of satisfaction of such Buyer obligations.



Unless the Buyer gives notice in writing delivered to the Seller or the Seller's lawyer within the Due Diligence Period that these conditions are fulfilled, this Agreement will be at an end and the Seller shall forthwith repay to the Buyer the First Deposit without interest or deduction, and all parties to this Agreement shall thereafter be relieved of any obligation or liability to each other because of this Agreement.

These conditions are included for the sole benefit of the Buyer and may be waived in whole or in part by notice in writing to the Seller or the Seller's lawyer within the Due Diligence Period.

(b) **Seller Conditions:** This Agreement shall be conditional for the benefit of the Seller upon the fulfilment of the following conditions, by 5:00 PM on the dates specified below (the "**Seller Condition Period**"):

- (i) within twenty (20) days following acceptance of this Agreement:
 - (1) the Seller obtaining the required approvals from its members for the transactions contemplated herein;
- (ii) within one hundred and twenty (120) days following acceptance of this Agreement:
 - (1) Buyer and the Seller have agreed upon the form of the Leaseback;
 - (2) the Buyer and the Seller have agreed upon a form of the Repurchase Agreement;
 - (3) the Buyer and the Seller have agreed upon a form of the Relocation Agreement; and
 - (4) the Buyer and the Seller have agreed upon a form of the Charge.

Unless the Seller gives notice in writing delivered to the Buyer or the Buyer's lawyer within the Seller Condition Period that these conditions are fulfilled, this Agreement will be at an end and the Seller shall forthwith repay to the Buyer the First Deposit without interest or deduction, and all parties to this Agreement shall thereafter be relieved of any obligation or liability to each other because of this Agreement.

These conditions are included for the sole benefit of the Seller and may be waived in whole or in part by notice in writing to the Buyer or the Buyer's lawyer within the Seller Condition Period.

6. **Closing Date and Requisition Date:** Closing (sometimes referred to herein as the "**Completion Date**") shall take place on such date that is thirty (30) days following the Due




Diligence Period. The Requisition Date shall be such date that is fourteen (14) days prior to the Completion Date.

7. **Extension of Dates:** If the Completion Date or any other operative date provided for in this Agreement occurs on a day that is not a Business Day, then such date will be deemed to be and is agreed to be postponed to occur on the next Business Day.

8. **Production of Documents and Confidentiality:**

- (a) The Buyer acknowledges that the Seller has previously provided it with information related to the Property pursuant to an electronic data room (the "Seller Deliveries").
- (b) Until Closing (and in the event this Agreement is terminated for any reason other than its completion, then also from and after such termination), the Buyer and its lenders, consultants, agents, advisors and solicitors shall keep confidential all information, documentation and records obtained from the Seller or its consultants, agents, advisors or solicitors with respect to the Property (including without limitation, the Seller Deliveries), as well as any information arising out of the Buyer's access to the Seller's records and the Property and its due diligence with respect thereto (collectively, the "**Confidential Information**"). The Buyer shall not use any Confidential Information for any purposes not related to this transaction or in any way detrimental to the Seller.

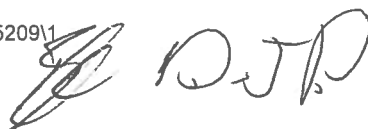
Nothing herein contained shall restrict or prohibit the Buyer from disclosing the Confidential Information to its lenders, consultants, agents, advisors and solicitors as long as such parties agree to keep such information confidential and the Seller receives such assurances as are acceptable to it.

- (c) The Confidential Information referred to in this Section shall not include:
- (i) public information or information in the public domain at the time of receipt by the Buyer or by its consultants, agents, advisors and solicitors;
 - (ii) information which becomes public through no fault or act of the Buyer or its consultants, agents, advisors and solicitors;
 - (iii) information required to be disclosed by law; or
 - (iv) information received in good faith from a third party lawfully in possession of the information and not in breach of any confidentiality obligations.
- (d) If this Agreement is terminated for any reason, the Buyer shall promptly return to the Seller all Confidential Information including all copies, and shall destroy all of




the Buyer's notes and due diligence materials containing Confidential Information related to this transaction.

9. **Consent to Release of Governmental Authorities File Information:** Upon written request of the Seller by the Buyer, the Seller shall provide the Buyer with written and signed authorizations executed by the Seller and addressed to the appropriate Governmental Authorities, authorizing the release of all information on file regarding the Property (but not authorizing inspections by any of such Governmental Authorities) prior to the Completion Date, as requested by the Buyer.
10. **Buyer's Entry for Testing Etc.:**
 - (a) Upon receipt of the First Deposit by the Seller, the Buyer will have the right, through its contractors or directly, to access the Property from time to time upon at least forty-eight (48) hours' notice (but at all times subject to the specific rights of the seller's tenants and licensees) as deemed necessary by the Buyer to conduct inspections, studies, tests and appraisals at the Buyer's cost prior to the Completion Date with any damages caused thereby to be promptly corrected/reversed by the Buyer. The Buyer will conduct such entry and any inspections, studies, tests and appraisals in connection therewith so as to minimize disruption to the Seller and its tenants and licensees.
 - (b) The Buyer shall provide the Seller with copies of all test results and reports upon receipt.
 - (c) The Buyer shall treat all test results and reports as Confidential Information.
11. **Property Condition:**
 - (a) The Buyer acknowledges and agrees that it is accepting the Property in an "as is, where is" condition and without any express or implied agreement, representation or warranty of any kind whatsoever as to the title, condition, area, suitability for development, physical characteristics, profitability, use or zoning, the existence of latent defects, any environmental matters, the quality thereof or as to the accuracy, currency or completeness of any information or documentation supplied or to be supplied in connection with the Property and without limiting the foregoing, any and all conditions or warranties expressed or implied pursuant to the *Sale of Goods Act* (Ontario) will not apply and are waived by the Buyer.
 - (b) The Buyer acknowledges that the Seller has informed it of some outstanding deficiencies in the Property which are required to be dealt with in order to bring it in compliance with the Building Code and permit more than one tenant/user in the Property. The Buyer agrees that it shall be responsible to perform such work at its costs and shall save the Seller harmless from any such costs.




12. **Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one (1) and the same instrument. Counterparts may be executed either in original, PDF or faxed form and the parties may adopt any signatures received by PDF or receiving fax machine as original signatures of the parties.
13. **Permitted Assigns:** The Buyer may assign this Agreement prior to the Completion Date to any company of which the Buyer, or an associated or related company or person to the Buyer or any of the Buyer's shareholders, officers or directors or any associated or related company's shareholders is/are also a shareholder. Further, the Buyer has the right to direct that title be conveyed to such corporation, person or entity as the Buyer may determine in its sole discretion in lieu of formal assignment. Notwithstanding the foregoing, the original Buyer named herein shall not be released from this Agreement and shall be a guarantor under the Lease and the Relocation Agreement.
14. **Closing Deliveries:** The parties hereto covenant and agree that they will deliver, as applicable, on the Closing Date, the following:
- (a) the Seller shall deliver:
 - (i) a deed/transfer in registrable form to the Property;
 - (ii) evidence by way of statutory declaration as to the Canadian residency of the Seller or, in the alternative, the requisite certificate pursuant to Section 116 of the *Income Tax Act*;
 - (iii) a statutory declaration of possession in the Seller's solicitor's usual form, confirming that, among other things, all accounts for labour and materials concerning the Property have been fully paid and no person has a right to file a claim under any applicable construction lien legislation against the Property and confirming that there are no outstanding disputes with respect to the boundaries of the Property;
 - (iv) a statement of adjustments;
 - (v) an undertaking to re-adjust any item on or omitted from the statement of adjustments;
 - (vi) the executed Leaseback, the Repurchase Option and the Relocation Agreement;
 - (vii) copies of all keys to the Property;
 - (viii) assignments of all warranties and guarantees from third parties, if any and if assignable, with respect to the Property;




- (ix) copies of all executed leases, offers to lease, licenses and tenancy agreements in respect of the Property (the "**Leases**");
 - (x) assignments of the Leases, if assignable; and
 - (xi) directions to the tenants, occupiers and licensees of the Leases to pay all future rents and other monies payable to them to the Buyer as it may direct.
- (b) the Buyer shall deliver:
- (i) the balance of the Purchase Price by direct deposit to the Seller's lawyers trust account;
 - (ii) an undertaking to re-adjust any item on or omitted from the statement of adjustments;
 - (iii) the executed Leaseback, the Repurchase Option, the Charge and the Relocation Agreement;
 - (iv) assumption of the Leases; and
 - (v) HST certificate and indemnity pursuant to Section 7 of the standard OREA form to which this schedule is attached.

15. Notices:

- (a) Any notice required or contemplated by any provision of this Agreement which either party may desire to give to the other shall be in writing and sufficiently given if given by:
 - (i) personal delivery which is effective when given; and/or,
 - (ii) delivery by prepaid courier to the address for the party listed below during regular business hours in which case such notice is effective when delivered; and/or,
 - (iii) facsimile transmission ("fax") to the number of the party set out below or as changed by written notice to the other party; and/or
 - (iv) by postage prepaid, registered mail addressed to the party to whom the said notice is to be given at the address of the party set out below or as changed by written notice to the other party. Notice by mailing shall be deemed to have been validly and effectively given and received three (3) Business Days following such posting (provided there is no postal strike or




other postal service disruption), as the case may be. If postal services are interrupted due to strike, lockout or similar event, then during the interruption the mailing of any such notice shall not be an effective means of sending such notice; and/or,

- (v) by email to the email address set out below or as changed by written notice to the other party.

(b) Information for service of notice:

- (i) Buyer's information for service of notice:

Zevest Development Corporation
Attention: Don Zehr
 607 King Street West, Suite 205A
 Kitchener, ON N2G 1C7
 Email: dzehr@zehrgroup.ca
 Phone: 519-576-2233
 Fax: 519-576-0072

- (ii) Buyer's solicitor:

Mark Schumacher
 Sorbara, Schumacher, McCann LLP
 31 Union Street East
 Waterloo, ON N2J 1B8
 Email: mark@sorbaralaw.com
 Phone: 519-749-4601
 Fax: 519-576-3234

- (iii) Seller's information for service of notice:

K-W Badminton Club
Attention: Dan Pronovost
 69 Agnes Street
 Kitchener, ON N2G 2E9
 Email: dan@deepnettech.com
 Phone: (519) 579-7212



(iv) Seller's solicitor:

Manuel A. Martins
 Gowling WLG (Canada) LLP
 50 Queen Street North, Suite 1020
 Kitchener, ON N2H 6M2
 Email: manuel.martins@gowlingwlg.com
 Phone: 519-575-7542
 Fax: 519-571-5042

16. **Definitions:** In this Agreement:

- (a) **"Business Day"** means any day other than: Saturday; Sunday; New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day; and any special holiday proclaimed by the Governor General or the Lieutenant Governor; and where New Year's Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is not a Business Day, and where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are not Business Days and where Christmas Day falls on a Friday, the following Monday is not a Business Day;
- (b) **"Governmental Authority"** means the local municipal governments and any other governmental authority, quasi-governmental authority, agency, body or department whether federal, provincial or municipal, having jurisdiction over the lands; and
- (c) **"substantial damage"** pursuant to Section 14 of the standard OREA form to which this schedule is attached, means damage to the Property which is in excess of \$200,000.00.

17. **No Merger:** The provisions of this Agreement shall not merge on the Closing Date but shall continue in full force and effect notwithstanding the delivery and registration of the transfer/deed.

18. **Buyer's Inquiries and Applications:** Upon receipt of the First Deposit by the Seller, the Buyer has the right to enter into discussions with any governmental authorities, including the local Conservation Authority, the City of Kitchener and/or Region of Waterloo about the Buyer's acquisition and/or proposed development of the Property. The Seller will promptly execute and promptly deliver to the Buyer any and all documents, consents and/or authorizations required for the foregoing to be pursued and completed by the Buyer at the cost of the Buyer.

The Seller acknowledges that the Buyer is (or may in the future be) processing and/or completing one or more development applications, including but not limited to rezoning,

minor variance and/or consent applications, with respect to the Property and/or in the neighbouring vicinity thereof, as well as site plan approval, draft plan of condominium approval, etc., with respect to the Property, in order to permit the development of the Property as determined by the Buyer in its sole discretion.

The Seller covenants and agrees that it shall not oppose any of the aforementioned applications including, without limitation, any application submitted or pursued by or on behalf of the Buyer to lawfully permit the development of the Property as it so chooses, or to obtain an increase in the density coverage thereof, or for any other lawful purpose whatsoever, and the Seller expressly acknowledges and agrees that this covenant may be pleaded as an estoppel or bar to any opposition or objection raised by the Seller there.

19. **Agreements:** The Seller will not enter into any agreement that negatively and materially affects the Property after the Completion Date without the written consent of the Buyer which consent shall not be unreasonably withheld.

Handwritten signature in blue ink, appearing to read "D.J.P." with a stylized flourish to the left.A simple handwritten mark in blue ink, resembling a checkmark or the number 7.