

ARBITRATION TRIBUNAL

**CONSTITUTED BY VIRTUE OF THE REGULATION RESPECTING THE
GUARANTEE PLAN FOR NEW RESIDENTIAL BUILDINGS**

(O.C. 841-98 OF 17 JUNE 1998)

**ARBITRATION BODY AUTHORIZED BY THE RÉGIE DU BÂTIMENT DU QUÉBEC
RESPONSIBLE FOR THE ADMINISTRATION OF THE BUILDING ACT (R.S.Q., C.
B-1.1)**

UNDER THE AEGIS OF

CANADIAN COMMERCIAL ARBITRATION CENTER (CCAC)

CANADA
PROVINCE OF QUÉBEC

FILE N°: S22-071501-NP (récl. 8135)

FILE N°: 129437-8135

GUARANTEE PLAN:

DATE: JANUARY 10, 2023

IN THE PRESENCE OF: M^{TRÉ} TIBOR HOLLÄNDER

TIAN DAN MIAO

«BENEFICIARY»

-and-

LES HABITATIONS DESCHÊNES ET PÉPIN INC.

«CONTRACTOR»

-and-

LA GARANTIE CONSTRUCTION RÉSIDENTIELLE (GCR)

«MANAGER OF THE GUARANTEE PLAN»

ACKNOWLEDGEMENT OF DISCONTINUANCE

- [1.] For the purposes of the present Acknowledgement of Discontinuance the Tribunal shall only set out, refer to and/or highlight those facts, documents and exhibits that are pertinent to the decision that is being rendered.
- [2.] On July 15, 2022, the Manager rendered a Decision¹ rejecting the claim lodged by the Beneficiary dated April 6, 2022².
- [3.] A request for arbitration was filed by the Beneficiary and the undersigned was named arbitrator on July 22, 2022³.
- [4.] A virtual pre-trial hearing/management conference was held on Friday, December 16, 2022, at 10:00 A.M., for the purpose, among others, of circumscribing the issues in arbitration, identifying the possible list of witnesses, the purpose and duration of their testimony, the estimated time to break down their evidence and pleadings on the merits and, consequently, to set the case for trial.
- [5.] The Beneficiary was given until January 6, 2023, 5:00 PM, to decide whether he will avail himself of his right to use an expert involving the only point submitted for arbitration.
- [6.] On January 3, 2023, the Beneficiary informed the Tribunal that he was discontinuing the request for arbitration⁴.
- [7.] In view of the circumstances, the Tribunal acknowledges and gives *acte* to the discontinuance of the request for arbitration filed by the Beneficiary.
- [8.] Good faith is presumed⁵ and the Tribunal does not have any evidence to establish that the Beneficiary did not act in good faith.
- [9.] In accordance with section 123 of the *Regulation respecting the guarantee plan for new residential buildings*, chapter B-1.1, r.8 ("**Regulation**"), the Tribunal is required to determine the division of the fees to be charged between the Manager and the Beneficiary.

¹ Exhibit A-9

² Exhibit A-8

³ Exhibit A-10

⁴ Email dated January 3, 2023 (8:39 AM)

⁵ Article 2805 C.C.Q.

- [10.] Consequently, the cost and fees of this arbitration, in virtue of sections 116 and 123 of the Regulation, shall be apportioned as to \$25.00 to the Beneficiary and the remainder to the Manager.

FOR THESE REASONS, THE ARBITRATION TRIBUNAL:

- [11.] **GIVES** effect to the discontinuance of the request for arbitration filed by the Beneficiary on 3 January 2023.
- [12.] **DECLARES** discontinued the request for arbitration lodged by the Beneficiary from the Decision rendered by the Manager on 15 July 2022.
- [13.] **ORDERS** in accordance with section 123 of the Regulation that the costs of the present arbitration be borne as for \$25.00 by the Beneficiary and for the remainder by the Manager.

Montreal, 10 January 2023

ORIGINAL SIGNED BY M^{TRE} TIBOR HOLLÄNDER

M^{TRE} TIBOR HOLLÄNDER
ARBITRATOR