

**IN THE MATTER OF
THE FAIR TRADING ACT**

THIS UNDERTAKING is made pursuant to Section 152 of the *Fair Trading Act*.

BY:

Stephen Burns
Operating as Commander Maintenance & Renovations
9514 – 160 Street NW
Edmonton, AB T5P 3C5

(hereinafter called the "**Supplier**")

TO:

The DIRECTOR OF FAIR TRADING (as delegated),
(hereinafter called the "**Director**")

WHEREAS:

- (A) The Supplier is not licensed to operate as a prepaid contracting business in the Province of Alberta.
- (B) The Supplier did enter into a prepaid contract with a consumer who resides in Sherwood Park, Alberta.
- (C) The Supplier did solicit, negotiate, or conclude in person a construction, renovation, or maintenance contract **and** did take progress payments from a consumer at a place other than the Suppliers' normal place of business without possessing a prepaid contracting business licence, contrary to section 104(1) of the *Fair Trading Act*.
- (D) The Supplier acknowledges that in the ordinary course of his business, while unlicensed as a prepaid contracting business, he did enter into two renovation and construction contracts with consumers in Sherwood Park (hereinafter called the "consumers"), residents of Alberta. One contract was negotiated and concluded on August 7, 2014, and a deposit was requested. The second contract was negotiated and concluded on August 21, 2014, and a deposit was requested. The Supplier accepted deposits in the amount of

\$7500.00 on August 21, 2014, from the consumers, before the work was completed.

- (E) The Supplier acknowledges that in the ordinary course of his business, while unlicensed, he did enter into a prepaid contract with the consumers without complying with the contract requirements as set out in Section 10(2) of the *Prepaid Contracting Business Licensing Regulation*, being AR 185/99, contrary to Section 10 of the *Prepaid Contracting Business Licensing Regulation*.
- (F) The Supplier acknowledges that in the ordinary course of his business, as municipal inspections were passed, he requested and received additional progress payments from the consumers totaling \$140,000.00 before the work was completed.
- (G) The Director asserts that he has reason to believe the acts or practices of the Supplier described in recitals (C), (D), (E), and (F) hereof constitute breaches of the *Fair Trading Act*.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

1. The Supplier acknowledges and admits that it has failed to comply with the licensing and referred provisions of the *Fair Trading Act* and undertakes to the Director that this Supplier will not, at any time hereafter, engage in acts or practices similar to those described in recitals (C), (D), (E), and (F).
2. The Supplier will ensure that in all capacities, either in his name, a trade name, corporation, or a partnership, or in his capacities as an employee, declarant of a trade name, director or shareholder of a corporation or as agent for another, or as parent or subsidiaries of another corporation, they will not take deposits or progress payments on construction, renovation, or maintenance contracts in Alberta unless licensed as a prepaid contracting business under the *Fair Trading Act*.
3. The Supplier will not permit any representative, employee, agent, or partner to carry on or engage in the taking of deposits or progress payments on construction, renovation, or maintenance contracts in the Province of Alberta unless they are licensed as a prepaid contracting business under the *Fair Trading Act*.
4. The Supplier will, to the best of its ability, ensure that all of its officers, partners, employees, representatives and agents are forthwith acquainted with the requirements of the *Fair Trading Act*, especially as it pertains to prepaid licensing and contract requirements and unfair practices.
5. It is understood that the Supplier has:
 - a. ceased taking deposits or progress payments on construction, renovation, or maintenance contracts from Albertans prior to completing the work;

- b. instructed his representatives, employees, or partners not to take deposits or progress payments on construction, renovation, or maintenance contracts from Albertans prior to completing the work;
- c. acquainted himself and any of his representatives, employees, or partners regarding the prepaid contracting business licensing and contract requirements and unfair practices outlined in the *Fair Trading Act*.

6. This Undertaking will be binding upon the Supplier and its successors and assigns unless:

- a. termination by the Director or varied with the consent of the Supplier;
- b. varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the undertaking; or
- c. terminated by an Order of a Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Supplier has undertaken to refrain from engaging in was not unfair;

However, in any such case, the termination or variance does not invalidate anything done under this Undertaking prior to termination or variance.

- 7. The Supplier acknowledges that the Director may, upon breach by the Supplier of any term of the Undertaking, institute such proceedings and take such action under the *Fair Trading Act* as he may consider necessary.
- 8. The Supplier will pay to the Director, for deposit with the Minister of Finance of Alberta, the sum of one thousand dollars (\$1,000.00), an amount which represents a portion of the costs of the investigation in this matter to the date of this Undertaking. Such payment shall be made within ten (10) banking days of the signing of this Undertaking.
- 9. The Supplier acknowledges that they were advised by Service Alberta, and is aware that they are entitled to seek independent professional advice regarding the signing of this Undertaking, and the Supplier acknowledges that they are entering into this Undertaking voluntarily.
- 10. It is understood that the terms of this Undertaking shall be maintained as a public record pursuant to Section 152(3) of the *Fair Trading Act*.

IN WITNESS WHEREOF the Supplier, has on the *16* day of *May*, 2016 caused its common seal to be hereunto affixed and attested by the signatures of its proper officers duly authorized in that behalf.

Stephen Burns
**Operating as Commander Maintenance &
Renovations**

9514 – 160 Street NW
Edmonton, AB T5P 3C5

PER: Stephen Burns
Stephen Burns

ACCEPTED by the Director of Fair Trading this 24th day of June, 2016.

Scott Hood

Scott Hood
DIRECTOR OF FAIR TRADING (as delegated)