

Court File No. CV-24-00724076-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

-and-

BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO INC.

Respondents

MOTION RECORD

March 14, 2025

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

-and-

BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO INC.

Respondents

NOTICE OF MOTION

KSV RESTRUCTURING INC. (“KSV”), in its capacity as the receiver and manager (in such capacity, the **“Receiver”**), without security, of certain real properties of Barakaa Developer Inc. and Lerrato Inc., and the property, assets and undertakings of 2145499 Ontario Inc., will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the **“Court”**), on **Monday, March 24, 2025 at 10:30AM**, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard orally via Zoom video conference.

THE MOTION IS FOR:

1. an approval and vesting order (the **“AVO”**) substantially in the form attached at Tab 3 of the Motion Record, among other things:
 - (a) validating and abridging the time for service of this Notice of Motion and the Motion Record and directing that any further service of the Notice of Motion and

Motion Record be dispensed with such that this Motion is properly returnable on the date scheduled for the hearing of this Motion;

- (b) approving the agreement of purchase and sale agreement of purchase and sale between the Receiver, as vendor, and Zeng Jie Wang, as purchaser (the “**Purchaser**”), dated February 12, 2025, as amended (the “**Sale Agreement**”), and the transaction contemplated therein (the “**Transaction**”), pursuant to which the Purchaser has agreed to purchase the land and building known municipally as 25 Madison Avenue, Richmond Hill, Ontario and the chattels listed in the Sale Agreement (collectively, the “**Purchased Assets**”), and vesting the Purchased Assets in the Purchaser free and clear of any and all liens, charges, security interests, encumbrances (with the exception of any Permitted Encumbrances as set out in the Sale Agreement), estates, rights and claims upon delivery by the Receiver of a certificate in the form attached as Schedule “A” to the AVO, and authorizing the Receiver to complete the Transaction;
- (c) authorising the Receiver to make one or more distributions to Foremost Mortgage Holding Corporation (“**Foremost**”) from the proceeds of sale of the Transaction, net of such amounts the Receiver determines, in consultation with Foremost, shall be held back on account of professional fees and Receiver’s Borrowing secured by the Receiver’s Charge or the Receiver’s Borrowing Charge (as defined in the Order of Justice Black appointing the Receiver in these proceedings, dated October 21, 2024 (the “**Receivership Order**”) as amended by the Order of Justice Kimmel dated February 3, 2025); and
- (d) such other and further relief as counsel may request and this Honourable Court may allow.

THE GROUNDS FOR THE MOTION ARE:

1. On October 21, 2024, upon an application by Foremost, a secured lender to the Debtors, KSV was appointed as Receiver pursuant to section 243(1) of the *Bankruptcy and*

Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) of certain real properties of Barakaa Developer Inc. (“**Barakaa**”) and Lerrato Inc. (“**Lerrato**”), and the property, assets and undertakings of 2145499 Ontario Inc. (“**214 Ontario**”, and together with Barakaa and Lerrato, the “**Debtors**”).

2. The Debtors are real property developers. The Receiver was appointed in respect of:
 - (a) two fully constructed homes in Richmond Hill, Ontario owned by Barakaa, being 25 Madison and 23 Madison Avenue (“**23 Madison**”);
 - (b) five fully constructed residential freehold townhouses and one parcel of residual real property (a municipal easement) in Ajax, Ontario owned by Lerrato (the “**Porte Properties**”); and
 - (c) a substantially completed 10-unit townhouse condominium project in Ajax, Ontario owned by 2145499 (the “**Doric Development**”),(collectively, the “**Receivership Assets**”).

The 25 Madison Mortgagees

1. On or around June 24, 2022, Foremost Financial Corporation (“**FFC**”), an affiliate of Foremost, and Barakaa entered into a credit agreement pursuant to which FFC agreed to advance \$4,133,000 to Barakaa. The FFC loan was subsequently assigned to Foremost. The loan was secured by, *inter alia*, a mortgage (the “**Foremost Mortgage**”) registered on title to 25 Madison, 23 Madison and 19 Madison Avenue, Richmond Hill, (“**19 Madison**” and together with 25 Madison and 23 Madison, the “**Madison Properties**”) which was sold by Barakaa in or about January of 2024.
2. In addition to the Foremost Mortgage, the Madison Properties were subject to a mortgage in favour of BIP in the initial principal amount of \$1,500,000, and a mortgage in favour of 1417199 Ontario Limited (“**141 Ontario**”) in the initial principal amount of \$750,000, which is postponed to BIP and subsequent to the Foremost Mortgage.

3. Prior to these receivership proceedings, in January 2024, Foremost, BIP and 141 Ontario each agreed to discharge their mortgages over 19 Madison in connection with the sale of that property by Barakaa, which sale resulted in the following payments on account of the foregoing mortgage indebtedness: (i) \$1,421,190.64 to Foremost, (ii) \$353,916.96 to BIP; and (iii) \$353,286.61 to 141 Ontario. Based on information provided by Foremost, BIP and Barakaa, as of the date of the Receiver's appointment, Foremost was owed approximately \$2,753,000, BIP was owed approximately \$1,150,000 and 141 Ontario was owed approximately \$400,000. Interest and costs have continued to accrue on each of these amounts since the date of the Receiver's appointment.
4. In or about October of 2023, a mortgage in the amount of \$5,000,000 (the "**Joshi Mortgage**") was registered on title to the Madison Properties (and a number of other Hitesh Jhaveri related properties) by Sanjive Joshi, Xpert Credit Control Solutions Inc. and Xpert law Inc. (collectively, the "**Joshi Parties**"), the registration of which is disputed by the Debtors and by Mr. Jhaveri. These disputes are the subject matter of ongoing litigation on the Commercial List between the Joshi Parties and Mr. Jhaveri and others concerning the mortgages validity and scope of the Joshi Mortgages.
5. Foremost has been funding these proceedings pursuant to the Receiver's Borrowing Charge (as defined in the Receivership Order). Total advances by Foremost under the Receiver's Borrowing Charge are currently \$831,000.

The 25 Madison Sale Process

6. 25 Madison was initially listed for sale by Barakaa with Naznin Daruwalla of Remax Crossroads Realty Inc. (the "**Listing Agent**") in July of 2024 at a listing price of \$2,699,000. Following the Receiver's appointment and discussions with Foremost, the Receiver decided to continue the 25 Madison listing with the Listing Agent, and based on the advice of the Listing Agent, reduced the list price to \$2,589,000 and subsequently to \$2,499,000.

7. One agreement of purchase and sale was entered into by Barakaa prior to the receivership, however the purchaser elected to not proceed with the transaction. Similarly, following the Receiver's appointment, it has signed back four further offers for 25 Madison, each of which was terminated by the prospective purchasers, principally citing their discomfort in buying a home on receivership terms, and subject to a Court approval condition, and also due to concerns that the 25 Madison home is not enrolled in the Ontario New Home Warranties and Protection Plan, and based on the advice of Tarion, could not be enrolled in that program.
8. On January 14, 2025, the Purchaser submitted its first offer. The Receiver did not consider this offer at that time, as the Receiver was considering a superior offer at that time; however, that buyer terminated its offer. On February 12, 2025 the Purchaser submitted a second, higher offer, which the Receiver accepted.

The Transaction

9. The Sale Agreement was signed on February 13, 2025. It was amended on March 12, 2025 to correct the legal description. The Transaction is unconditional except for Court approval. The Transaction has a closing date of March 31, 2025. The purchase price is \$2,401,000, of which \$150,000 has been received by the Listing Agent as a deposit to be held in trust pending closing. The Sale Agreement terms are consistent with the standard terms of an insolvency transaction, i.e., on an "as is, where is" basis, with limited representations and warranties, and includes an acknowledgement from the Purchaser that the home is not enrolled in the Ontario New Home Warranties and Protection Plan.
10. The Receiver is of the view that: (i) the market for 25 Madison has been thoroughly and effectively canvassed by the Listing Agent, (ii) based on the time of exposure to the market and the five previously terminated offers, the Sale Agreement and Transaction contemplated thereby should be approved, and (iii) it is unlikely that continuing to market 25 Madison will result in a superior transaction, particularly after considering the fees and costs of the Receiver, its legal counsel and these proceedings;

11. Foremost is supportive of the Transaction.

Distributions to Foremost

12. Foremost is the principal secured creditor of Barakaa and has a first in time mortgage registered on title to 25 Madison. The Receiver's counsel, DLA Piper (Canada) LLP, has provided the Receiver with its opinion confirming the validity and enforceability of the Foremost Mortgage. The proceeds of the Transaction will not be sufficient to repay in full Barakaa's debt owing to Foremost secured by the Foremost Mortgage. As such, there will be no distributions from the Transaction to subordinate ranking mortgagees.
13. Subject to Court approval, the Receiver is seeking the Court's approval to make distributions to Foremost up to the amount of Foremost's debt secured by the Foremost Mortgage from the sale proceeds following closing of the Transaction, subject to retaining a holdback in respect of the professional fees and costs of these proceedings secured by the Receiver's Charge and the Receiver's Borrowing Charge.
14. such further and other grounds as set out in the First Report; and
15. Rules 1.04, 1.05, 2.01, 2.03, 16.04 and 37 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended.

AND FURTHER TAKE NOTICE that the following materials will be filed in support of this motion, namely:

- (a) the Receiver's Second Report; and
- (b) such further and other material as counsel may advise and this Honourable Court may allow.

March 14, 2025

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TO: THE SERVICE LIST

FOREMOST MORTGAGE HOLDING CORPORATION

and

**BARAKAA DEVELOPER INC., LERRATO INC.
and 2145499 ONTARIO INC.**

Applicant

RespondentS

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

NOTICE OF MOTION

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TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

- and -

BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO INC.

Respondents

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, and section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. C.43**

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TAB 3



**Second Report to Court of
KSV Restructuring Inc.
as Receiver and Manager
of 2145499 Ontario Inc. and certain properties
of Barakaa Developer Inc.,
and Lerrato Inc.**

March 13, 2025

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COURT FILE NUMBER: CV-24-00724076-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

FOREMOST MORTGAGE HOLDING CORPORATION

APPLICANT

- AND -

BARAKAA DEVELOPER INC., LERRATO INC., AND 2145499 ONTARIO INC.

RESPONDENT

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

**SECOND REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

MARCH 13, 2025

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (the "**Court**") made on October 21, 2024 (the "**Receivership Order**"), KSV Restructuring Inc. ("**KSV**") was appointed receiver and manager (the "**Receiver**"), without security, of the real properties listed in Appendix "A" of the Receivership Order (the "**Barakaa Properties**") owned by Barakaa Developer Inc. ("**Barakaa**"), the real properties listed in Appendix "B" of the Receivership Order (the "**Lerrato Properties**") owned by Lerrato Inc. ("**Lerrato**"), and the property, assets and undertaking owned by 2145499 Ontario Inc. ("**214**", and together with the Barakaa Properties and the Lerrato Properties, (the "**Receivership Assets**"). A copy of the Receivership Order is attached as **Appendix "A"**.
2. The application to appoint KSV as Receiver was made by Foremost Mortgage Holding Corporation ("**Foremost**"), a secured creditor of Barakaa, Lerrato and 214 (collectively, the "**Debtors**"), which has mortgages on each of the Receivership Assets registered prior to all other mortgages registered on title to the Receivership Assets.

3. Foremost has been funding these proceedings pursuant to the Receiver's Borrowing Charge (as defined in the Receivership Order). Total advances by Foremost under the Receiver's Borrowing Charge as of the date of this report (the "**Second Report**") were \$831,000.
4. The principal purpose of the receivership is to sell the Receivership Assets.
5. This Second Report is filed by KSV in its capacity as Receiver.

1.1 Purposes of this Second Report

1. The purposes of this Second Report are to:
 - a) provide background information about these proceedings;
 - b) summarize a proposed sale (the "**Transaction**") of a home built by Barakaa located at 25 Madison Avenue, Richmond Hill ("**25 Madison**") by the Receiver to Zen Jie Wang (the "**Purchaser**") pursuant to an agreement of purchase and sale dated February 12, 2025 (the "**APS**");
 - c) recommend that the Court issue an Approval and Vesting Order (the "**AVO**"), among other things:
 - approving the Transaction;
 - transferring and vesting Barakaa's right, title and interest in and to 25 Madison in the Purchaser free and clear of all liens, charges, security interests and encumbrances, other than permitted encumbrances, following the Receiver's delivery of a Receiver's certificate substantially in the form attached as Schedule "A" to the proposed AVO; and
 - d) recommend that the Receiver be permitted to make distributions to Foremost, subject to holding back amounts the Receiver considers sufficient to fund the ongoing professional fees and other costs of these proceedings.

1.2 Currency

1. Unless otherwise noted, all currency references in this Report are to Canadian dollars.

1.3 Restrictions

1. In preparing this Report, the Receiver has relied upon discussions with, and information provided by, *inter alia*:
 - a) the listing agent for 25 Madison, being Naznin Daruwalla of Remax Crossroads Realty Inc. (the "**Listing Agent**");
 - b) representatives of the principals of the Debtors, including Hitesh Jhaveri, and their legal counsel, Chaitons LLP;
 - c) Foremost, and its legal counsel, Paliare Roland Rosenberg Rothstein LLP;
 - d) representatives of BIP Management Inc. ("**BIP**"); and
 - e) the receivership application materials (collectively, the "**Information**").

2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook. Accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of the Information. Any party (other than the Court) wishing to place reliance on the Information is required to perform its own diligence.

2.0 Background

2.1 Barakaa

1. Barakaa is a real estate development corporation controlled by Mr. Jhaveri and his wife, Niketa Wadia.
2. Among other real property owned by Barakaa, Barakaa built three homes in Richmond Hill, Ontario. Their municipal addresses are 25 Madison Avenue, 19 Madison Avenue (“**19 Madison**”), and 23 Madison Avenue (“**23 Madison**” and with 19 Madison and 25 Madison, the “**Madison Properties**”).
3. On or around June 24, 2022, Foremost Financial Corporation (“**FFC**”), an affiliate of Foremost, and Barakaa entered into a credit agreement pursuant to which FFC advanced \$4,133,000 to Barakaa. The FFC loan was subsequently assigned to Foremost. The loan was secured by, *inter alia*, mortgages registered on title to the Madison Properties (the “**Foremost Mortgage**”). The Foremost Mortgage remains registered on title to 23 Madison and 25 Madison.
4. In addition to the Foremost Mortgage, the Madison Properties were subject to a mortgage in favour of BIP in the initial principal amount of \$1,500,000, and a mortgage in favour of 1417199 Ontario Limited (“**141 Ontario**”) in the initial principal amount of \$750,000, which is postponed to BIP, and subsequent to the Foremost Mortgage.
5. Prior to these receivership proceedings, in January 2024, Foremost, BIP and 141 Ontario each agreed to discharge their mortgages over 19 Madison in connection with the sale of that property by Barakaa, that resulted in the following payments on account of their respective mortgage indebtedness at the time:
 - a) \$1,421,190.64 to Foremost;
 - b) \$353,916.96 to BIP; and
 - c) \$353,286.61 to 141 Ontario.
6. In addition to the Madison Properties, Barakaa owns five other properties in Ontario which are not subject to these receivership proceedings.
7. The table below summarizes the amounts owing under the mortgages registered on title to the Madison Properties as of the date of the Receivership Order. The amounts in the table are net of the proceeds that each mortgagee received from the sale of 19 Madison, but before interest and costs that have continued to accrue since the date of the Receivership Order.

Secured Party	(\$000)
Foremost	2,753
BIP	1,150
141 Ontario	400
Joshi Parties (as defined below)	5,000
Total	9,303

8. The Receiver has periodically corresponded with BIP's representative concerning these receivership proceedings, including in respect of the sale process for 25 Madison. BIP is not projected to receive any distributions from the sale of 25 Madison, nor is 141 Ontario or the Joshi Parties. Accordingly, as discussed further below, Foremost is the only creditor with a direct economic interest in the sale of 25 Madison.
9. In or about October of 2023, a mortgage in the amount of \$5,000,000 (the "**Joshi Mortgage**") was registered on title to the Madison Properties (and a number of other Hitesh Jhaveri-related properties) by Sanjive Joshi, Xpert Credit Control Solutions Inc. and Xpert law Inc. (collectively, the "**Joshi Parties**"), the registration of which is disputed by the Debtors and by Mr. Jhaveri. These disputes are the subject matter of ongoing litigation on the Commercial List between the Joshi Parties and Mr. Jhaveri (and others) concerning the validity and scope of the Joshi Mortgage.
10. One of the primary reasons for the commencement of these receivership proceedings was the inability of the Debtors to convey clean title to purchasers of the Receivership Assets due to the registration of the Joshi Mortgage by the Joshi Parties. It was contemplated that the receivership proceedings would provide a forum to complete the sale of the Receivership Assets free and clear of encumbrances by way of approval and vesting orders.

3.0 25 Madison Sale Process

1. Barakaa retained the Listing Agent to list 25 Madison for sale on July 17, 2024. The original listing price for the property was \$2,699,000.
2. The Receiver has been advised that prior to these proceedings, Barakaa entered into an agreement to sell 25 Madison; however, the Purchaser decided to terminate its offer.
3. The Listing Agent used conventional methods to market 25 Madison for sale, including, renting furniture to stage the home, listing it on the Multiple Listing Service ("MLS"), conducting open houses, creating a virtual tour, taking professional photos, using social media, sending email blasts, and placing a for-sale sign on the property.
4. Following its appointment, the Receiver discussed the 25 Madison listing with the Listing Agent. The Listing Agent advised that it was its view 25 Madison was over-priced and accordingly, the price was reduced from \$2,699,999 to \$2,589,000 on November 7, 2024. Following a period of slow activity, and based on feedback from buyers, the listing price was subsequently further reduced to \$2,448,000.
5. Immediately following the second price reduction, an offer was received for the property; however, the prospective purchaser decided to terminate its offer. Thereafter, three additional offers were received for 25 Madison, which were negotiated and signed back by the Receiver, but in each case, the prospective purchasers terminated their offers (the "**Terminated Receivership Offers**").

6. 25 Madison is not enrolled in *Ontario New Home Warranties and Protection Plan*. In an email to the Receiver dated December 16, 2024, Torys LLP, counsel to Tarion, advised “*there is no pathway for 25 Madison Avenue, Richmond Hill, Ontario, to be enrolled in the Ontario New Home Warranties and Protection Plan*” (the “**Tarion Warranty Plan**”).
7. The Receiver has been advised by the Listing Agent that the prospective buyers who submitted the Terminated Receivership Offers were not comfortable buying a home on receivership terms (i.e. without representations and warranties), subject to a Court approval condition and without enrolment in the Tarion Warranty Plan.
8. On January 14, 2025, the Purchaser submitted its first offer. The Receiver did not consider this offer at that time, as the Receiver was considering a superior offer; however, that buyer terminated its offer.
9. On February 12, 2025, the Purchaser submitted a second, higher offer, which the Receiver accepted. The APS was signed on February 13, 2025. The Transaction is unconditional except for Court approval. The Transaction has a closing date of March 31, 2025.

4.0 The Transaction

4.1 The APS

1. The key terms of the APS are provided below. (A copy of the APS is provided in **Appendix “B”**.)
 - **Vendor:** Receiver
 - **Purchaser:** Zeng Jie Wang
 - **Purchased Assets:** all right, title and interest of Barakaa in and to 25 Madison, including all appliances and chattels located at 25 Madison.
 - **Excluded Assets:** all property, assets, and undertakings other than the Purchased Assets, including but not limited to the staging furniture.
 - **Purchase Price:** \$2,401,000
 - **Deposits:** \$120,000 upon acceptance of the APS, and an additional \$30,000 within 15 days following acceptance of the APS. (Both deposits have been received.)
 - **Excluded Liabilities:** the Purchaser shall assume, fulfill, perform and be responsible for all liabilities and obligations of any kind relating to the Purchased Assets in respect of the period from and after closing.
 - **Representations and Warranties:** consistent with the standard terms of an insolvency transaction, i.e., on an “as is, where is” basis, with limited representations and warranties.
 - **Closing Date:** March 31, 2025.

4.2 Transaction Recommendation

1. The Receiver recommends the Court issue the AVO for the following reasons:
 - a) the process undertaken to market 25 Madison was consistent with processes commonly used to market residential real property for sale;
 - b) in the Receiver's view, it is unlikely that continuing to market 25 Madison will result in a superior transaction, particularly after considering the fees and costs of the Receiver, its legal counsel and these proceedings;
 - c) five prior offers were received for 25 Madison, including the four Terminated Receivership Offers and one pre-receivership offer. Each of the prospective buyers who submitted the Terminated Receivership Offers expressed concerns about a receivership transaction and the absence of Tarion warranty protection;
 - d) Foremost consents to the Transaction; and
 - e) the Transaction is unconditional other than Court approval.

5.0 Distribution

1. Foremost is the principal secured creditor of Barakaa and has a first in time mortgage registered on title to 25 Madison.
2. Based on an opinion dated March 11, 2025 from the Receiver's counsel, DLA Piper (Canada) LLP, confirming the validity and enforceability of the Foremost Mortgage, and subject to Court approval, the Receiver is seeking the Court's approval to make distributions to Foremost up to the amount of Foremost's debt on the Barakaa Properties from the sale proceeds following closing of the Transaction, subject to retaining a holdback in respect of the professional fees and costs of these proceedings secured by the Receiver's Charge and the Receiver's Borrowing Charge.
3. As shown in the table below, the proceeds of the Transaction will not be sufficient to repay in full Barakaa's debt owing to Foremost. As such, there will be no distributions from the Transaction to subordinate ranking mortgagees.

	(\$000)
Sale price	2,401
HST	(276)
Net sale proceeds	2,125
Realtor commission	(96)
Net proceeds available for distribution	2,029
Foremost mortgage and costs ¹	(3,362)
Foremost shortfall, before Receiver's Borrowing Charge	(1,333)

¹ The Foremost debt is based on a payout statement dated February 28, 2025, plus per diem interest since that date to March 31, 2025.

6.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief in this Second Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF 2145499 ONTARIO INC. AND
CERTAIN PROPERTIES OF BARAKAA DEVELOPER INC. AND LERRATO INC.,
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY**

Appendix “A”



Court File No. CV-24-00724076-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE
JUSTICE W.D. BLACK

)
)
)

MONDAY, THE 21ST DAY
OF OCTOBER, 2024

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

- and -

BARAKAA DEVELOPER INC., LERRATO INC., and 2145499 ONTARIO INC.

Respondents

ORDER
(Appointing Receiver)

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing KSV Restructuring Inc. as receiver and manager (in such capacities, the "Receiver") without security, of the lands and premises described in Appendix "A" hereto (the "Madison Properties"), owned by Barakaa Developer Inc. ("Barakaa"), the lands and premises described in Appendix "B" hereto (the "Porte Properties"), owned by Lerrato Inc. ("Lerrato") and the property, assets and undertakings of 2145499 Ontario Inc. ("**214**" and, with Lerrato and Barakaa, the "**Debtors**"), the owner of the lands and premises described in Appendix "C" hereto (the "**Doric Property**" and, together with the Madison Properties and the Porte Properties, the "**Real Property**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Andrew Stern sworn October 11, 2024 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant and the other parties listed on the counsel slip, no one else appearing although duly served as appears from the lawyer's certificate of service of Ryan Shah dated October 15, 2024 and on reading the consent of KSV Restructuring Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV Restructuring Inc. is hereby appointed Receiver, without security, of:

- (a) the Madison Properties, including all proceeds thereof;
- (b) the Porte Properties, including all proceeds thereof;
- (c) Lerrato's interest in the \$184,973 presently being held by the Town of Ajax as cash collateral in respect of Lerrato's obligations pursuant to a development agreement between Lerrato and the Town of Ajax dated August 21, 2018;
- (d) all of the properties, assets and undertakings of 214 acquired for, or used in relation to a business carried on by 214, including all proceeds thereof (collectively, the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) In the case of Barakaa and Lerrato, and only in respect of the Madison Properties and the Porte Properties, respectively, as the case may be, to manage, operate, and carry on the business of the Barakaa and Lerrato, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of Barakaa and Lerrato in respect of the Madison Properties and the Porte Properties, respectively;
- (d) In the case of 214, to manage, operate, and carry on the business of 214, including the powers to enter into any agreements, incur any obligations in

the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of 214;

- (e) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (f) In the case of Barakaa and Lerrato, and only in respect of the Madison Properties and the Porte Properties, respectively, as the case may be:
 - (i) to receive and collect all monies and accounts now owed or hereafter owing to Barakaa or Lerrato in relation to the Madison Properties and the Porte Properties, respectively, and to exercise all remedies of Barakaa or Lerrato in collecting such monies, including, without limitation, to enforce any security held by Barakaa or Lerrato in respect of the Madison Properties and Porte Properties, respectively;
 - (ii) to settle, extend or compromise any indebtedness owing to Barakaa or Lerrato in respect of the Madison Properties and the Porte Properties, respectively;
 - (iii) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Madison Properties or the Porte

Properties, respectively, or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (g) In the case of 214;
 - (i) to receive and collect all monies and accounts now owed or hereafter owing to 214 and to exercise all remedies of 214 in collecting such monies, including, without limitation, to enforce any security held by 214;
 - (ii) to settle, extend or compromise any indebtedness owing to 214;
 - (iii) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to 214, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;

- (i) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
 - (j) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario Personal Property Security Act or section 31 of the Ontario Mortgages Act, as the case may be, shall not be required,
- (k) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
 - (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the

Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (m) to register a copy of this Order and any other Orders in respect of the Real Property against title to any of the Real Property;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority with respect to the Property and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (p) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have in respect of the Property; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors in relation to the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors in relation to the Property or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings

currently under way against or in respect of the Debtors in relation to the Property or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtors in relation to the Property, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors in relation to the Property, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data

services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program*

Act. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all

Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

24. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.

25. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

26. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

28. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

29. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial

indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

31. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



APPENDIX "A"

PIN 03206-4245

Lot 741 and Part Lots 740 and 742, Plan 133, part 2, Plan 65R38228; Town of Richmond Hill

PIN 03206-4246

Lot 743 and Part Lot 742, Plan 133, Part 1, Plan 65R38228; Town of Richmond Hill

APPENDIX "B"

PIN 26454-0553

PT LT 6 CON 1, PT 1 40R30173, PICKERING; S/T EASEMENT AS IN P131742; TOWN OF AJAX

PIN 26454-0554

PT LT 6 CON 1, PT 2 40R30173, PICKERING; S/T EASEMENT AS IN P131742; TOWN OF AJAX

PIN 26454-0555

PT LT 6 CON 1 PT 3 40R30173, PICKERING; S/T EASEMENT AS IN P13742; TOWN OF AJAX

PIN 26454-0556

PT LT 6 CON 1 PT 4 40R30173, PICKERING; S/T EASEMENT AS IN P13742; TOWN OF AJAX

PIN 26454-0557

PT LT 6 CON 1 PT 5 40R30173, PICKERING; S/T EASEMENT AS IN P13742; TOWN OF AJAX

PIN 26454-0558

PT LT 6 CON 1 PT 6 40R30173, PICKERING; S/T EASEMENT AS IN P13742; TOWN OF AJAX

APPENDIX "C"

PIN 26452-0789

PART LOTS 108, 109, 110 AND 111 PLAN 377, PARTS 1 AND 2 PLAN 40R30571;
SUBJECT TO AN EASEMENT OVER PART LOT 108 PLAN 377 PART 2 PLAN
40R30571 IN FAVOUR OF THE CORPORATION OF THE TOWN OF AJAX AS IN
DR309514; SUBJECT TO AN EASEMENT IN FAVOUR OF ENBRIDGE GAS INC. AS
IN DR2203728; TOWN OF AJAX

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the "Receiver") of, among other things, the assets and undertakings of 2145499 Ontario Inc. and the real property having the legal description set out in Appendices "A" and "B" to Order of Justice Black dated October 21, 2024 (the "Order") made in an application having Court file number CV-24-00724076-00CL, including all proceeds thereof (collectively, the "Property"), has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the

right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 202__.

KSV Restructuring Inc., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

FOREMOST MORTGAGE HOLDING
CORPORATION
Applicant

-and- BARAKAA DEVELOPER INC. et al.
Respondent

Court File No. CV-24-00724076-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**ORDER
(Appointing Receiver)**

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

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Toronto, ON M5V 3H1

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ryan.shah@paliareroland.com

Dillon Gohil (LSO#89738M)

Tel: 416.646.6353

dillon.gohil@paliareroland.com

Lawyers for the Applicant

Appendix “B”



Agreement of Purchase and Sale

Form 100

for use in the Province of Ontario

This Agreement of Purchase and Sale dated this 12 day of February 2025

BUYER: Zeng Jie Wang, agrees to purchase from
(Full legal names of all Buyers)

SELLER: KSV RESTRUCTURING INC, As Receiver, Manager of the Property, the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address 25 Madison Ave Richmond Hill ON L4E 2Z7

fronting on the South side of Madison Ave

in the Town of Richmond Hill

and having a frontage of 44.95 FEET more or less by a depth of 100.07 Feet more or less

and legally described as
LOTS 740 AND 742, PLAN 133, PART 2, PLAN 65R38228

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

PURCHASE PRICE: Dollars (CDN\$) 2,401,000.00

Two Million Four Hundred One Thousand Dollars

DEPOSIT: Buyer submits [Signature] upon acceptance [Signature] 120,000
(Herewith / ~~Upon~~ Acceptance/as otherwise described in this Agreement)

One Hundred Twenty Thousand Dollars (CDN\$) ~~120,000.00~~

by negotiable cheque payable to RE/MAX Crossroads Realty Inc., Brokerage "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 B, C attached hereto form(s) part of this Agreement.

1. IRREVOCABILITY: This offer shall be irrevocable by Buyer until 8 on the 13 day of February 2025, 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 31 day of March 2025. 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]

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. **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 where the Brokerage represents both the Seller and the Buyer (multiple representation) or where the Buyer or the Seller is a self-represented party.** 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: arnold@arnoldyeung.ca (For delivery of Documents to Buyer)

4. **CHATELS INCLUDED:**

~~All appliances, GDFP, TWO ELECTRICAL PANELS ** SMART WIRING, (as-is), FLE, CAC, CVAC, Key pad, security system (as-is)~~

ALL APPLIANCES AND CHATELS NOW ON THE PROPERTY WILL STAY AND ARE BEING IN SOLD IN "AS IS" CONDITION.

Initial


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:**

staging furniture

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:

Hwt

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

..... included in the Purchase Price. If the sale of the property is not subject to HST, Seller agrees to certify on or before (included in/in addition to) closing, that the sale of the property 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 the17..... day ofMarch....., 20²⁵....., (Requisition Date) to examine the title to the property at Buyer's 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 Buyer that there are no outstanding work orders or deficiency notices affecting the property, and that its present use (.....residential.....) 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 telecommunication services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telecommunication 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 Ontario. Unless otherwise agreed to by the lawyers, such exchange of Requisite Deliveries shall occur by the delivery of the Requisite Deliveries of each party to the office of the lawyer for the other party 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. **The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, the Buyer will not be obtaining a property inspection or property inspection report regarding the property.**
- 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):



INITIALS OF SELLER(S):



- 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 Seller's 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. 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.
- 20. 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.
- 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 Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time.
- 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 urea formaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains urea formaldehyde. 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.
- 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. ELECTRONIC SIGNATURES:** The parties hereto consent and agree to the use of electronic signatures pursuant to the *Electronic Commerce Act, 2000, S.O. 2000, c17* as amended from time to time with respect to this Agreement and any other documents respecting this transaction.
- 28. 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):

29. 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:

(Witness)

(Buyer) Zeng Jie Wang

(Seal)

(Date)

2/12/2025

(Witness)

(Buyer)

(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:

(Witness)

(Seller) Bobby Kofman

(Seal)

(Date)

2/13/2025

KSV Restructuring Inc., As Receiver & Manager Of Barakaa Developer Inc

(Witness)

(Seller)

(Seal)

(Date)

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 this 2/13/2025 day of....., 20..... (a.m./p.m.)

Signed by: Bobby Kofman (Signature of Seller or Buyer)

KSV Restructuring Inc., As Receiver & Manager Of Barakaa Developer Inc

INFORMATION ON BROKERAGE(S)

Listing Brokerage RE/MAX CROSSROADS REALTY INC., BROKERAGE (Tel.No.) 905-305-0505 NAZIN DARUWALLA (Salesperson/Broker/Broker of Record Name) Co-op/Buyer Brokerage RE/MAX REALTRON SIMPLE REALTY (Tel.No.) (416) 222-8600 ARNOLD YEUNG & MICHAEL FONG (Salesperson/Broker/Broker of Record 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.

Signed by: Bobby Kofman 2/13/2025 (Date)

(Buyer) Zeng Jie Wang (Date)

(Seller) KSV Restructuring Inc., As Receiver & Manager Of Barakaa Developer Inc (Date)

(Buyer) Address for Service (Date)

(Tel. No.)

(Tel. No.)

Seller's Lawyer

Buyer's Lawyer

Address

Address

Email

Email

(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 and signed by:

Signed by: Naznin Daruwalla (Authorized to bind the Listing Brokerage)

Signed by: Arnold Yeung Michael Fong (Authorized to bind the Co-operating Brokerage)

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Schedule A Agreement of Purchase and Sale

Form 100

for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: Zeng Jie Wang, and

SELLER: KSV RESTRUCTURING INC, As Receiver, Manager of the Property

for the purchase and sale of 25 Madison Ave Richmond Hill

..... ON L4E 2Z7 dated the 12 day of February 2025

Buyer agrees to pay the balance as follows:

~~This offer is conditional upon the Buyer being able to arrange necessary financing within Five (5) business days after acceptance of this offer. Otherwise this offer shall become null and void, and the deposit shall be returned to the Buyer in full without interest or deduction. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option.~~

~~This offer is conditional upon the inspection of the subject property by a home inspector at the Buyer's own expense, and the obtaining of a report satisfactory to the Buyer in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller within 3 Five (5) business days after acceptance of this offer, that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to cooperate in providing access to the property for the purpose of this inspection. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller within the time period stated herein.~~

~~The Seller agrees to provide, at the expense of the Seller, a survey of the property, completed by an Ontario Land Surveyor, showing the current location of all buildings, structures, additions, fences, improvements, easements, rights-of-way and encroachments affecting the property within Five (5) business days after acceptance of this offer.~~

The Buyer acknowledges that they are not in party to a Buyer Agreement with any other registered Real Estate Brokerage for sale or lease of any property. The Buyer also acknowledges that they have not been introduced to the subject property by any other Salesperson, Broker or Brokerage.

The Buyer agrees to pay the balance of the purchase price, subject to adjustment, in cash or by certified cheque, to the Seller on the completion of this transaction.

~~The Seller warrants that there are no work orders or deficiency notice outstanding against the property, and if so will be completed on or before closing at the Seller's own expense.~~

~~The Seller warrants that the chattels and fixtures included in the purchase price shall be in working order on the date of closing and are deemed to be free of any liens and encumbrances.~~

The Seller agrees to discharge any mortgages or liens or other encumbrances registered against the property on or before closing.

This form must be initialled by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



Schedule A Agreement of Purchase and Sale

Form 100

for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: Zeng Jie Wang, and

SELLER: KSV RESTRUCTURING INC, As Receiver, Manager of the Property

for the purchase and sale of 25 Madison Ave Richmond Hill

..... ON L4E 2Z7 dated the 12 day of February 2025

Buyer agrees to pay the balance as follows:

The Seller warrants to give the vacant possession of the property to the Buyer on the date of closing

The Parties to the transaction hereby acknowledge that the Province of Ontario is currently implementing "Current Value Assessment (CVA)." Any information made available by the Seller or any Broker or Salesperson in connecting with assessment or property tax information predate CVA, there shall be no obligation of, or claim made against to any party hereunder, or any Broker or Salesperson referred to herein, arising out of, or in any way related to assessment or property tax information in connection with the property.

The Seller agrees that Buyer shall have the right to visit the property Three (3) more times before the date of closing. WITH PRIOR AT LEAST 24 HOURS NOTICE.

The Seller and the Buyer agree that offer, counter offer and notices may be sent and received by facsimile or similar transmission and the communication by such means will be legal and binding on all parties.

~~The Seller represents and warrants that during the time the Seller has owned the property, the use of the property and the buildings and structures thereon has not been for the growth or manufacture of any illegal substances, and that to the best of the Seller's knowledge and belief, the use of the property and the buildings and structures thereon has never been for the growth or manufacture of illegal substances. This warranty shall survive and not merge on the completion of this transaction.~~

The Seller agrees, at the expense of the Seller to remove all personal belongings, all Chattels (Not included in this Offer) and all debris from in and around the subject property on or before closing. The Seller agrees to leave behind the green bin and recycle blue box in the subject property on closing.

The Seller agrees at the expense of the Seller to clean the property in a broom swept condition on or before closing.

The Seller agrees to provide access to the property to the Buyer or anyone designated by the Buyer for the purposes of appraisal / insurance inspection upon a minimum of twenty-four (24) hours notice, and to take place between the hours of 8:00a.m. & 8:00p.m.

The Buyer agrees to provide a further deposit of Thirty Thousand Dollars (\$30,000.00) by bank draft or certified cheque, payable to RE/MAX Crossroads Realty Inc., Brokerage, within 15 days upon acceptance of this Agreement.

This form must be initialled by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



Amendment to Agreement of Purchase and Sale

Form 120

for use in the Province of Ontario

BETWEEN:

BUYER: Zeng Jie Wang

AND

SELLER: KSV RESTRUCTURING INC, As Receiver, Manager of the Property

RE: Agreement of Purchase and Sale between the Seller and Buyer, dated the 12 day of February, 2025,

concerning the property known as 25 Madison Ave

Richmond Hill ON L4E 2Z7 as more particularly described in the aforementioned Agreement.

The Buyer and Seller herein agree to the following amendment(s) to the aforementioned Agreement:

Delete

legally described as

LOTS 740 AND 742, PLAN 133, PART 2, PLAN 65R38228

Insert:

legally described as

LOT 743 AND PART LOT 742, PLAN 133, PART 1, PLAN 65R38228

INITIALS OF BUYER(S):

Initial

INITIALS OF SELLER(S):

Initial

IRREVOCABILITY: This Offer to Amend the Agreement shall be irrevocable by Buyer (Seller/Buyer) until 11:59 (a.m./p.m.) on the 12 day of March, 2025, after which time, if not accepted, this Offer to Amend the Agreement shall be null and void.

For the purposes of this Amendment to Agreement, "Buyer" includes purchaser and "Seller" includes vendor. 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 solicitors who are hereby expressly appointed in this regard.

All other Terms and Conditions in the aforementioned Agreement to remain the same.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:
DocuSigned By: [Signature] 3/10/2025
(Witness) (Buyer/Seller) (Seal) (Date)
FCBF667337A9485...

I, the Undersigned, agree to the above Offer to Amend the Agreement.

SIGNED, SEALED AND DELIVERED in the presence of: Signed by: IN WITNESS whereof I have hereunto set my hand and seal:
Naznin Daruwalla [Signature] 3/11/2025
(Witness) (Buyer/Seller) (Seal) (Date)
FCBF340D... 5A47G1CCA4F9445...

The undersigned spouse of the Seller hereby consents to the amendment(s) hereinbefore set out.

(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 3/11/2025 this 3/11/2025 day of 3/11/2025, 2025 (a.m./p.m.)

Signed by: [Signature]
(Signature of Seller or Buyer)

ACKNOWLEDGEMENT

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

[Signature] 3/11/2025
(Seller) (Date)
(Seller) (Date)
Address for Service
(Tel. No.)
Seller's Lawyer
Address
Email
(Tel. No.) (Fax. No.)

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

(Buyer) Zeng Jie Wang (Date)
(Buyer) (Date)
Address for Service
(Tel. No.)
Buyer's Lawyer
Address
Email
(Tel. No.) (Fax. No.)

TAB 4

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)
)
JUSTICE STEELE)
) **MONDAY, THE 24TH DAY**
) **OF MARCH, 2025**

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

-and-

BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of certain real properties of Barakaa Developer Inc. and Lerrato Inc., and the property, assets and undertakings of 2145499 Ontario Inc., for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and Zeng Jie Wang, as purchaser (the “**Purchaser**”), dated February 12, 2025 (the “**Sale Agreement**”), and vesting in the Purchaser the land and building known municipally as 25 Madison Avenue, Richmond Hill, Ontario and the chattels listed in the Sale Agreement (collectively, the “**Purchased Assets**”) on closing, was heard this day by videoconference.

ON READING the Receiver's Second Report to the Court and appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the Lawyer's Certificate of Service of Edmond Lamek dated March XX, 2024, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

SALE APPROVAL

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Property to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of the Purchased Assets described in the Sale Agreement, including, without limitation, all of the Debtor's right, title and interest in and to the real property listed on **Schedule "B"** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, free and clear

of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of The Honourable Justice Black made on October 21, 2024 and The Order of The Honourable Justice Kimmel February 3, 2025; (ii) all charges, security interests or claims evidenced by registrations against Barakaa Developer Inc. ("**Barakaa**") pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Real Property identified in **Schedule "B"** hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims and Court Orders listed in **Schedule "C"** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead

of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Barakaa and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Barakaa,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Barakaa and shall not be void or voidable by creditors of Barakaa, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

Schedule “A” (AVO) – Form of Receiver’s Certificate

Court File No. CV-24-00724076-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

-and-

BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO INC.

Respondents

RECEIVER’S CERTIFICATE

WHEREAS pursuant to an Order of The Honourable Justice Black of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on October 21, 2024, KSV Restructuring Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”), without security, without security, of certain real properties of Barakaa Developer Inc. and Lerrato Inc., and the property, assets and undertakings of 2145499 Ontario Inc.

AND WHEREAS pursuant to an Order of the Court dated March xx, 2025, the Court approved the agreement of purchase and sale dated February 12, 2025 between the Receiver, as vendor, Zeng Jie Wang, as purchaser (the “**Purchaser**”) (the “**Sale Agreement**”), and provided for the vesting in the Purchaser of the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for

the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

AND WHEREAS unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

NOW THEREFORE THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of of certain real properties of Barakaa Developer Inc. and Lerrato Inc., and the property, assets and undertakings of 2145499 Ontario Inc., and not in its personal capacity or in any other capacity

Per: _____

Name: Bobby Kofman

Title: President

Schedule "B" (AVO) – Real Property

Legal Description: Lot 743 and part lot 742, Plan 133, Part 1, Plan 65R38228

Schedule “C” (AVO) – Instruments to Be Deleted from Title

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2706667	2017/07/24	Charge	\$1,725,000	Barakaa Developer Inc.	Foremost Mortgage Holding Corporation
YR3443814	2022/06/24	Charge	\$4,133,000	Barakaa Developer Inc.	Foremost Mortgage Holding Corporation
YR3561972	2023/06/13	Charge	\$750,000	Barakaa Developer Inc.	1417199 Ontario Inc
YR3581760	2023/08/03	Postponement		1417199 Ontario Inc	Foremost Mortgage Holding Corporation
YR3596443	2023/09/12	Charge	\$1,500,000	Baraka Developer Inc.	BIP Management Corporation
YR3596645	2023/09/12	Postponement		1417199 Ontario Inc	BIP Management Corporation
YR3610007	2023/10/19	Charge	\$5,000,000	Barakaa Developer Inc.	Joshi, Sanjive, Xpert Credit Control Solutions Inc., Xpert Law Inc.
YR3731285	2024/10/22	Apl Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.

Schedule “D” (AVO) – Permitted Encumbrances

1. Encumbrances for real property taxes (which term includes charges, rates and assessments, and other governmental charges or levies) or charges for electricity, power, gas, water and other services and utilities in connection with the Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
2. Any subsisting restrictions, exceptions, reservations, limitation, provisos and conditions (including royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grants from the Crown.
3. Easements, rights of way, and servitudes and other similar rights in land granted to, reserved or taken by any governmental authority, transit authority or public or private utility supplier.
4. Subdivision agreements, site plan control agreements, development agreements or other similar agreements with any governmental authority, transit authority or public or private utility supplier.
5. Restrictive covenants, private deed restrictions and other similar land use controls or agreements registered on title, which do not, in the aggregate, materially impair the use, operation or marketability of the Property.
6. Undetermined or inchoate liens and charges incidental to current construction or current operations which have not been filed or registered according to applicable law and which relate to obligations neither due nor delinquent provided all amounts owing in respect thereof are adjusted for on Closing.
7. Minor title defects or irregularities which do not, in the aggregate, materially impair the use, operation or marketability of the Property.
8. Minor title defects, irregularities, easements, reserves, encroachments, rights of way or other discrepancies in title or possession relating to the Property that are disclosed by any survey or that would be disclosed by an up-to-date survey of the Property.
9. Statutory exceptions, reservations, limitations, provisos, qualifications and conditions to title contained in Section 44(1) of the *Land Titles Act* (Ontario), but not including the matters listed in paragraph 11 thereof.
10. The provisions of Applicable Laws including zoning, land use, development and building restrictions, by-laws, regulations, ordinances of governmental authorities and similar instruments, including municipal by-laws and regulations, airport zoning regulations, restrictive covenants and other land use limitations, public or private, by-laws and regulations and other restrictions as to the use of the Property.
11. The following specific instruments:

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
IF315	1951/20/19	By Law			
IF367	1952/04/28	By Law			The Corporation of the Town of King
65R38228	2010/12/20	Plan Reference			
YR3430374	2022/05/26	LR's Order		Land Registrar, York Region Land Registry Office	

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

-and- BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO
INC.
Respondents

Court File No. CV-24-00724076-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

DLA PIPER (CANADA) LLP
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Lawyers for the Receiver

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

-and- BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO
INC.
Respondents

Court File No. CV-24-00724076-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

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Lawyers for the Receiver