

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

BETWEEN:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

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**MOTION RECORD  
(Returnable December 18, 2024)**

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December 11, 2024

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*Lawyers for the Receiver*

**TO: SERVICE LIST**

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

BETWEEN:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

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# TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**NOTICE OF MOTION**

**KSV RESTRUCTURING INC. (“KSV”)**, in its capacity as court-appointed receiver (the “**Receiver**”) of all of the assets, undertakings and properties of La Pue International Inc. (“**Respondent**”), including the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario (the “**Real Property**”) will make a motion to a judge presiding over the Superior Court of Justice, Commercial List (the “**Court**”) on Wednesday, December 18, 2024, at 11:00 a.m., or as soon after that time as the motion can be heard.

**THE PROPOSED METHOD OF HEARING:**

- In writing under subrule 37.12.1 (1) because it is (insert one of on consent, unopposed or made without notice);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- BY VIDEO CONFERENCE.**

**THE MOTION IS FOR:**

1. an order:
  - (a) validating service of the Receiver's Notice of Motion and Motion Record;
  - (b) approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement dated April 4, 2024 (the "**Original APA**"), as amended by the Reinstatement and Amending Agreement dated July 12, 2024 (the "**First Reinstatement**"), the Reinstatement and Amending Agreement dated October 8, 2024 (the "**Second Reinstatement**") and the Third Reinstatement and Amending Agreement dated November 18, 2024 (the "**Third Reinstatement**", and collectively, the "**Sale Agreement**"), between the Receiver and Lakeshore Luxe Design & Build Group ("**Lakeshore**");
  - (c) vesting in 1000835091 Ontario Inc. (the "**Purchaser**"), as assignee of Lakeshore, the Respondent's right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), including the Real Property;
  - (d) approving the Receiver's Fourth Report dated December 11, 2024 (the "**Fourth Report**") and the Receiver's conduct and activities described therein;
  - (e) sealing Confidential Appendices to the Fourth Report until the closing of the sale transaction contemplated therein (the "**Transaction**");

- (f) authorizing the receiver to establish a reserve (the “**Holdback Reserve**”) to be held by the receiver from the cash proceeds of the Transaction pending determination of the validity, quantum and priority of the Holdback Claims (as defined below);
- (g) authorizing the Receiver to distribute the net sale proceeds from the Transaction (less the Holdback Reserve) to MarshallZehr; and
- (h) such further and other relief that the Receiver may request and this Honourable Court may consider just.

### **THE GROUNDS FOR THE MOTION ARE:**

#### **Background**

1. The Respondent is a single purpose corporation that owns the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario (the “**Real Property**”). The Respondent planned to develop and construct on the Real Property three mid-rise buildings consisting of one mixed-use, one hotel and one residential building (the “**Project**”).
2. The Receiver was appointed pursuant to the terms of the Receivership Order on an application by MarshallZehr Group Inc. (“**MarshallZehr**”), the Respondent’s senior secured creditor.
3. On December 20, 2023, this Court granted an order (the “**Sale Process Order**”) authorizing the Receiver to commence the process for the sale of the Real Property (the “**Sale Process**”).
4. Pursuant to the terms of the Sale Process Order, the Receiver retained Colliers Macaulay Nicolls Inc. (“**Colliers**”) as listing agent. The Receiver, with the assistance of Colliers, carried out

the Sale Process in accordance with the terms of the Sale Process Order. A summary of the Sale Process is set out in section 3.1 of the Receiver's Third Report dated June 17, 2024 (the "**Third Report**").

5. As was described by the Receiver in the Third Report, the Sale Process culminated in the Receiver entering into the Original APA with Lakeshore (the "**Original Transaction**").

6. As described in the Third Report, the Purchaser paid the First Deposit of \$500,000. Despite the Second Deposit (as defined in the Original APA) not being paid, the Receiver proceeded to obtain an approval and vesting order and close the transaction. The Receiver informed the Court that this approach was intended to compel the Purchaser to either complete the transaction or forfeit the First Deposit.

7. On June 21, 2024, the Court granted an order, among other things, approving the Original Transaction and sealing the unredacted copy of the Original APA.

8. The Original Transaction was scheduled to close on July 2, 2024. On the scheduled date, the Receiver tendered the closing documents, however the Purchaser failed to pay the balance of the closing funds. On July 4, 2024, the Receiver formally terminated the Original Transaction and the First Deposit was forfeited to the Receiver.

### **Revived Transaction**

9. The Receiver was informed that the Purchaser required until September 2024 to secure the necessary funds to close. Consequently, on July 12, 2024, the Purchaser and the Receiver entered into the First Reinstatement pursuant to which the parties agreed as follows:



- a) the Purchase Price under the Original APA would be increased by \$50,000;
- b) the Purchaser would deliver the Second Deposit by July 11, 2024;
- c) if the Purchaser failed to close the Transaction by the new closing date, the First Deposit and the Second Deposit would be forfeited to the Receiver;
- d) the Purchaser would provide two additional deposits payable on July 22, 2024, and August 1, 2024; and
- e) the closing date would be extended to September 6, 2024.

10. The Second Deposit was delivered within the timelines prescribed in the First Reinstatement. However, the Purchaser failed to pay the additional deposits by the prescribed deadlines. Accordingly, this transaction was terminated by the Receiver and the First Deposit and the Second Deposit were forfeited.

11. In September 2024, MarshallZehr advised the Receiver that the Purchaser had partnered with a real estate developer based in Toronto known to MZ. The Receiver was advised that the Purchaser was not registered with the Home Construction Regulatory Authority ("**HCRA**") and, therefore, could not assume the Sale Agreements, even though the Original APA provided for the assumption. Following discussions with the Purchaser, the developer and MarshallZehr, on October 8, 2024, the Receiver entered into the Second Reinstatement, which included the following terms:

- a) an additional deposit payable within one day of executing the agreement; and
- b) an agreement for the Purchaser to assume the Sale Agreement ninety (90) days after

the Closing Date (the "**Assumption Date**"), with an option for the Purchaser to extend the Assumption Date by an additional ninety (90) days upon prior written notice to the Vendor and the Vendor's Solicitors, or as mutually agreed in writing. This assumption was conditional on the Purchaser obtaining a vendor and builder license from the HCRA.

12. The Purchaser failed to pay the additional deposit and the Receiver again terminated the transaction on October 24, 2024 and re-listed the Real Property for sale.

13. In November 2024, the Purchaser informed the Receiver that it now had access to a further deposit that was cumulatively the same value as the First Deposit and the Second Deposit (the "**Third Deposit**"). Given the Purchaser's prior defaults, the Receiver required the deposit to be placed in the Purchaser's lawyer's trust account before considering a further reinstatement agreement. MarshallZehr also advised the Receiver that it was prepared to finance the balance of the purchase price. On November 18, 2024, the Purchaser's counsel confirmed that the entirety of the Third Deposit was in its trust account. On the same day, the Receiver executed the Third Reinstatement which included the following terms:

- a) the Purchaser would pay the Third Deposit to counsel for the Receiver in trust within one (1) business day. If the Purchase Agreement were terminated due to the Purchaser's default, the Third Deposit, along with any accrued interest, will be forfeited to the Receiver;
- b) if the financing transaction contemplated by a letter of intent between MarshallZehr and the Purchaser failed due to reasons unrelated to the Purchaser's default, the deposit would be returned to the Purchaser without deductions or interest, upon the Purchaser's

request; and

- c) the terms of the Original APA together with the First Reinstatement and the Second Reinstatement were reinstated.

14. MarshallZehr has confirmed that other than standard financing conditions requiring Court approval of the Transaction and registration of security, all of its other financing conditions for the loan to the Purchaser have been waived.

15. Since the Receiver's last attendance before the Court, the only other offers for the Real Property received by the Receiver were from the Respondent's principal. As described in greater detail in the Fourth Report, these offer were not considered by the Receiver since they didn't include evidence of financing or financial ability to complete the proposed transaction.

16. The Transaction is substantially similar to the terms approved by the Court in June 2024, subject to the following amendments:

- a) approximately 18% of the purchase price has now been received by the Receiver by way of deposits. These deposits will be forfeited if the Transaction does not close as a consequence of the Purchaser's default;
- b) the purchase price was increased by \$50,000; and
- c) the Purchaser will only assume the Sale Agreements once it gets HCRA approval, which it has over 90 days after closing to obtain. If the Purchaser does not obtain HCRA approvals, the deposits under the Sale Agreements will be fully refunded.

17. In addition to the reasons set out in the Third Report, the Receiver recommends the Court

approve the Transaction for the following reasons:

- a) the process undertaken by the Receiver to market the Real Property was commercially reasonable and conducted in accordance with the terms of the Sale Process Order;
- b) the Real Property has been listed for over a year, and the Transaction offers a path to conclude the receivership and minimize further professional fees and costs, including significant maintenance costs;
- c) the Amended Transaction is unconditional, but for Court approval; and
- d) MarshallZehr supports the Transaction.

### **Confidential Appendices**

18. The Receiver seeks an order sealing confidential appendices to the Fourth Report pending the closing of the Transaction or a further order of the Court. The confidential appendices contain commercially sensitive information including, among other things, the purchase price under the Sale Agreement and the other offers submitted in the Sale Process and information about deposits which, if disclosed, could be used to ascertain the purchase price under the Sale Agreement. If the Transaction does not close, the disclosure of this information could prejudice the Receiver's ability to market the Real Property for sale.

### **Distribution to MarshallZehr and Proposed Holdback**

19. If the Transaction is approved, the Receiver is seeking authorization and direction to distribute proceeds therefrom to: (i) repay the amounts owing under the Receiver's Borrowings Charge; (ii) establish a reserve to fund any holdback deficiencies in respect of any valid

construction liens on the Real Property, and (iii) to repay a portion amounts owing by the Respondent to MarshallZehr.

20. MarshallZehr is the principal secured creditor of the Respondent and holds a first ranking mortgage against the Real Property. As at December 18, 2024, the Respondent continues to be indebted to MarshallZehr under its loan in the amount of approximately \$20.9 million.

21. The Receiver requested that Aird & Berlis LLP (“**A&B**”), as independent legal counsel, conduct a review of the security granted by the Respondent to MarshallZehr. A&B provided the Receiver with an opinion that, subject to standard assumptions and qualifications, pursuant to applicable security documentation, MarshallZehr has valid security interests or charge, as applicable, against the Property to be sold pursuant to the Transaction.

22. There are eight construction liens totaling approximately \$13.6 million registered against the Real Property. Based on description of services provided in the liens, the claimants all provided services to Buttcon Limited (“**Buttcon**”). Buttcon’s own lien is in the amount of approximately \$8.2 million.

23. Based on A&B’s review of the MarshallZehr loan and security documents, the maximum aggregate potential priority for the claims for liens registered against the Real Property is limited to the maximum statutory holdback of \$1.35 million (the “**Proposed Holdback**”). Accordingly, the Receiver seeks to distribute the net proceeds from the Transaction, less the Proposed Holdback, to MarshallZehr.

24. The Receiver understands that the Respondent did not segregate any funds for holdback. The Receiver intends to carry out a process to establish whether any of the lien claimants could

have a Priority Payable Claim that ranks ahead of MarshallZehr in respect of any deficiency in holdback. The Receiver has written to the lien claimants for more information regarding their Lien claims.

25. To facilitate an interim distribution, while concurrently running this process, the Receiver seeks to establish a Holdback Reserve of approximately \$1.4 Million, which exceeds 10% of the total amount of liens registered on the Real Property. Should the Receiver determine there are amounts that are in fact payable in priority to MarshallZehr, following a review of the applicable claims, the Receiver will seek to release funds from the Holdback Reserve with the consent of MarshallZehr and the applicable claimant or a further order of the Court.

#### **Other**

26. Rules 2.03, 3.02, 16.01 and 37 of the *Rules of Civil Procedure* (Ontario).

27. Such further and other grounds as counsel may advise and this Honourable Court may permit.

#### **THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:**

1. The Third Report of the Receiver dated June 17, 2024 and the appendices thereto;
2. The Fourth Report of the Receiver dated December 11, 2024; and
3. Such further and other material as counsel may advise and this Honourable Court may permit.

December 11, 2024

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*Lawyers for the Receiver*

**MARSHALLZEHR GROUP INC**

Applicant

**- and LA PUE INTERNATIONAL INC.**

Respondent

Court File No. CV-23-00700695-00CL

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceedings commenced at TORONTO

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**NOTICE OF MOTION**  
**(RETURNABLE DECEMBER 18, 2024)**

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# TAB 2



**Fourth Report of  
KSV Restructuring Inc.  
as Receiver of  
La Pue International Inc.**

**December 11, 2024**

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COURT FILE NO.: CV-23-00700695-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

MARSHALLZEHR GROUP INC.

APPLICANT

- AND -

LA PUE INTERNATIONAL INC.

RESPONDENT

FOURTH REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER

DECEMBER 11, 2024

## 1.0 Introduction

1. This report (“**Report**”) is filed by KSV Restructuring Inc. (“**KSV**”), in its capacity as receiver (the “**Receiver**”) of the assets, undertakings, and property of La Pue International Inc. (the “**Company**”) acquired for or used in relation to a business carried on by the Company.
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on October 19, 2023, KSV was appointed Receiver.
3. The Company’s principal asset is the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario (the “**Real Property**”). The principal purpose of the receivership proceeding is to market the Real Property for sale in a Court-supervised process.
4. On December 20, 2023, the Court issued an order (the “**Sale Process Order**”) approving a sale process for the Real Property and certain related assets (the “**Sale Process**”).

5. On April 4, 2024, the Receiver and Lakeshore Luxe Design & Build Group (“**Lakeshore**”) entered into an Asset Purchase Agreement (the “**Original APA**”) which contemplated a transaction (the “**Original Transaction**”) for, among other things, the sale of the Real Property and the assumption of 359 pre-sale agreements entered into with homebuyers (the “**Sale Agreements**”) (collectively, the “**Purchased Assets**”).
6. On June 11, 2024, Lakeshore assigned all of its right, title and interest in the Original APA to 1000835091 Ontario Inc. (the “**Purchaser**”) pursuant to an Assignment of Agreement of Purchase and Sale dated June 11, 2024 (the “**Assignment Agreement**”).
7. On June 17, 2024, the Receiver filed its Third Report to Court (the “**Third Report**”) recommending, among other things, that the Court approve the Original Transaction. A copy of the Third Report (without appendices) is attached as **Appendix “A”**. On June 21, 2024, the Court issued an order (the “**Sale Approval Order**”) approving the Original Transaction. A copy of the Sale Approval Order is attached as **Appendix “B”**.
8. As detailed below, the Purchaser failed to close the Original Transaction, and the Receiver terminated this transaction. The Receiver subsequently entered into several reinstatement agreements with the Purchaser, the details of which are set out below.
9. The Receiver has now negotiated terms with the Purchaser for an amended transaction (the “**Amended Transaction**”), which is unconditional except for Court approval. Approximately 18% of the purchase price under the Amended Transaction has been paid in cash and is held by the Receiver in trust. The balance of the purchase price will be satisfied by financing provided by MarshallZehr to the Purchaser.

## 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) provide an update on the status of the Real Property;
  - b) summarize the terms of the Amended Transaction;
  - c) summarize the Receiver’s dealings with Mr. Pawel Fugiel, the principal of the Company;
  - d) discuss a proposed distribution from the net sale proceeds of the Amended Transaction (the “**Proceeds**”) to MarshallZehr Group Inc. (“**MarshallZehr**”), the Company’s senior secured creditor and the Applicant in these proceedings;
  - e) discuss a proposed reserve (the “**Holdback Reserve**”) to be held by the Receiver from the cash proceeds of the Transaction pending a determination of the Holdback Claims (as defined below);
  - f) discuss next steps in these proceedings;

- g) recommend that the Court issue orders, among other things:
  - i. approving the Amended Transaction;
  - ii. authorizing and directing the Receiver to make an interim distribution to MarshallZehr, on account of its secured indebtedness;
  - iii. authorizing the Receiver to establish the Holdback Reserve, while the Receiver establishes a process for the determination of any entitlement to the Holdback Reserve, and authorizing the Receiver to release funds from the Holdback Reserve in respect of Holdback Claims to the applicable lien claimant, if the Receiver determines any such amounts are payable in priority to MarshallZehr (“**Priority Payables**”), (i) with the consent of MarshallZehr and the applicable claimant, or (ii) further order of the Court;
  - iv. sealing Confidential Appendices “1” to “5” (collectively, the “**Confidential Appendices**”) to this Report until the business day following the closing of the Amended Transaction; and
  - v. approving this Fourth Report and the Receiver’s conduct and activities described therein;

## 1.2 Currency

1. All currency references in this Report are to Canadian dollars, unless otherwise noted.

## 1.3 Restrictions

1. In preparing this Report, the Receiver has relied upon information, including financial information provided by MarshallZehr, the principal secured creditor of the Company. The Receiver has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
2. The Receiver expresses no opinion or other form of assurance with respect to the financial information presented in this Report or relied upon by the Receiver in preparing this Report. Any party wishing to place reliance on the Company’s financial information should perform its own diligence.

## 2.0 Background

1. The Company is a single purpose entity that owns the Real Property. Mr. Fugiel is the sole officer and director of the Company.
2. The Company intended to use the Real Property to develop and sell three mid-rise buildings consisting of one mixed-use, one hotel and one residential building on the Property (the “**Project**”). Prior to the receivership proceedings, the Company completed significant shoring and excavation work on the Project, although no other phases of construction have commenced.

3. Prior to the receivership proceedings, the Company entered into the Sale Agreements and collected approximately \$31 million of deposits. The deposits are being held in trust with the surety.
4. The Receiver was appointed on an application by MarshallZehr. Pursuant to a commitment letter dated November 15, 2021, as amended, MarshallZehr agreed to provide a loan in the maximum principal amount of \$12,375,000 to the Company for the purpose of refinancing an existing loan. The Receiver understands, based on the information provided to it by MarshallZehr, that the entirety of the funds advanced was used to fund the refinancing, interest reserve and service fees related to the refinancing transaction.
5. Pursuant to a letter dated November 30, 2022, MarshallZehr increased the loan amount by \$5,625,000 (the “**Third Advance**”). The Receiver understands that the Third Advance was conditional upon the Company satisfying certain conditions, which were not met. Accordingly, the Third Advance was not made to the Company. As of the date of this Report, MarshallZehr is owed approximately \$20.4 million (the “**MarshallZehr Indebtedness**”).
6. As security for the MarshallZehr Indebtedness, the Company granted MarshallZehr, amongst other things, (i) a first ranking charge in the principal amount of \$13.8 million on the Property, which was registered on December 1, 2021, and (ii) a general security agreement. MarshallZehr registered a financing statement against the Company under the *Personal Property Security Act* (Ontario) (“**PPSA**”).
7. Sovereign General Insurance Company (“**SGIC**”) holds a second ranking charge in the principal amount of \$2 million as security for deposit insurance. SGIC also registered a financing statement against the Company under the PPSA. SGIC and MarshallZehr are also parties to a priority agreement.
8. In addition to a PPSA registration in favour of SGIC and MarshallZehr, eight construction liens totalling approximately \$13.6 million are registered against the Real Property.
9. Following its appointment, on October 23, 2023, the Receiver wrote to Mr. Fugiel to request information regarding, among other things, the Company’s creditors. In November 2023, the Receiver also requested during telephone conversations with Mr. Fugiel that he provide, among other things, the Company’s books and records. Despite numerous follow up attempts via email and telephone calls, the information requested by the Receiver has not been provided.
10. Due to Mr. Fugiel’s lack of cooperation, the Receiver was forced to incur additional costs to obtain the required information and documents, including copies of all existing Agreements of Purchase and Sale. The Receiver reserved its rights to bring a motion in the future to recover these costs from Mr. Fugiel.



## 2.1 Status of Real Property

1. Since the commencement of these proceedings, the Receiver has had regular monitoring reports completed on the shoring by RWH Engineering Inc. which specializes in excavation work. Earlier this year, the Receiver spent approximately \$350,000 (excluding taxes) to repair the shoring. On November 29, 2024, the Receiver received a quote of \$390,000 (excluding taxes) to prepare the site for winter maintenance, which has been provided to counsel for the Purchaser.

## 3.0 Transaction

1. A summary of the Sale Process and the Original Transaction is provided in the Third Report, a copy of which, without appendices, is attached as Appendix "A". The purchase price of the Original Transaction was sealed pursuant to a Court order issued on June 21, 2024, although the purchase price was disclosed to the lien claimants who signed non-disclosure agreements.
2. As described in the Third Report, the Purchaser paid the First Deposit of \$500,000. Despite the Second Deposit (as defined in the Original APA) not being paid, the Receiver proceeded to obtain an approval and vesting order and close the transaction. The Receiver informed the Court that this approach was intended to compel the Purchaser to either complete the transaction or forfeit the First Deposit.
3. The Original Transaction was scheduled to close on July 2, 2024. On the scheduled date, the Receiver tendered the closing documents, however the Purchaser failed to pay the balance of the closing funds. On July 4, 2024, the Receiver formally terminated the Transaction and the First Deposit was forfeited to the Receiver. A copy of the termination letter sent by the Receiver's counsel to the Purchaser is attached as **Appendix "C"**.
4. Following discussions with the Purchaser, the Receiver was informed that the Purchaser required until September 2024 to secure the necessary funds to close. Consequently, on July 12, 2024, the Purchaser and the Receiver entered into a Reinstatement and Amending Agreement (the "**First Reinstatement Agreement**") pursuant to which the parties agreed as follows:
  - a) the Purchase Price under the Original APS would be increased by \$50,000;
  - b) the Purchaser would deliver the Second Deposit by July 11, 2024;
  - c) if the Purchaser failed to close the Transaction by the new closing date, the First Deposit and the Second Deposit would be forfeited to the Receiver;
  - d) the Purchaser would provide two additional deposits payable on July 22, 2024, and August 1, 2024; and
  - e) the closing date would be extended to September 6, 2024.
5. A copy of the First Reinstatement Agreement with the purchase price redacted is attached as **Appendix "D"**. An unredacted copy of the First Reinstatement Agreement is attached as **Confidential Appendix "1"**.

6. The Purchaser failed to pay the additional deposits by the prescribed deadline. Accordingly, the transaction was terminated and the First Deposit and the Second Deposit were forfeited. Attached as **Appendix “E”** is a copy of the termination letter.
7. In September 2024, MarshallZehr advised the Receiver that the Purchaser had partnered with a real estate developer based in Toronto known to MZ. The Receiver was advised that the Purchaser was not registered with the Home Construction Regulatory Authority (“**HCRA**”) and, therefore, could not assume the Sale Agreements, even though the Original APS provided for the assumption. Following discussions with the Purchaser, the developer and MarshallZehr, on October 8, 2024, the Receiver entered into a Second Reinstatement and Amending Agreement (the “**Second Reinstatement Agreement**”), which included the following terms:
  - a) an additional deposit payable within one day of executing the agreement; and
  - b) an agreement for the Purchaser to assume the Sale Agreements ninety (90) days after the Closing Date (the "Assumption Date"), with an option for the Purchaser to extend the Assumption Date by an additional ninety (90) days upon prior written notice to the Vendor and the Vendor's Solicitors, or as mutually agreed in writing. This assumption was conditional on the Purchaser obtaining a vendor and builder license from the HCRA.
8. A copy of the Redacted Second Reinstatement Agreement is attached as **Appendix “F”**. A copy of the Unredacted Second Reinstatement Agreement is attached as **Confidential Appendix “2”**.
9. Despite executing the document the day earlier, the Purchaser failed to pay the additional deposit and the Receiver again terminated the transaction on October 24, 2024.
10. The Receiver subsequently re-listed the Purchased Assets for sale.
11. In November 2024, the Purchaser informed the Receiver that it now had access to a further deposit that was cumulatively the same value as the First Deposit and the Second Deposit (the “**Third Deposit**”). Given the Purchaser’s prior defaults, the Receiver required the deposit to be placed in the Purchaser’s lawyer’s trust account before considering a further reinstatement agreement. MarshallZehr also advised the Receiver that it was prepared to finance the balance of the purchase price. On November 18, 2024, the Purchaser’s counsel confirmed that the entirety of the Third Deposit was in its trust account. On the same day, the Receiver executed a Third Reinstatement and Amending Agreement (the “**Third Reinstatement Agreement**”), which included the following terms:
  - a) the Purchaser would pay the Third Deposit to counsel for the Receiver in trust within one (1) business day. If the Purchase Agreement was terminated due to the Purchaser’s default, the Third Deposit, along with any accrued interest, will be forfeited to the Receiver;

- b) if the financing transaction contemplated by a letter of intent between MarshallZehr and the Purchaser failed due to reasons unrelated to the Purchaser's default, the deposit would be returned to the Purchaser without deductions or interest, upon the Purchaser's request; and
  - c) the terms of the Original APA together with the First Reinstatement Agreement and Second Reinstatement Agreement were reinstated.
12. A copy of the redacted Third Reinstatement Agreement is attached as **Appendix "G"**. A copy of the unredacted Third Reinstatement Agreement is attached as **Confidential Appendix "3"**
  13. MarshallZehr has confirmed that other than standard financing conditions requiring Court approval of the Transaction and registration of security, all of its other financing conditions for the loan to the Purchaser have been waived.

### **3.1 The Debtor's Attempts to Purchase the Real Property**

1. Since the outset of these proceedings, Mr. Fugiel has indicated on several occasions his intention to redeem the MarshallZehr mortgage loan or purchase the Real Property.
2. On September 20, 2024, Mr. Fugiel presented an offer to Colliers International, the listing broker engaged by the Receiver, to purchase the Real Property. Attached as **Appendix "H"** is a copy of Mr. Fugiel's redacted offer. A copy of his unredacted offer is attached as **Confidential Appendix "4"**.
3. By email correspondence dated September 30, 2024 and October 28, 2024, the Receiver and its legal counsel advised Mr. Fugiel and his legal counsel that his offer will not be considered unless he provides evidence that he has the financial ability to close the transaction. No such evidence was provided. Copies of the email correspondence are collectively attached as **Appendix "I"**.
4. On November 2, 2024, Mr. Fugiel presented another offer to the Receiver with an increased purchase price (the **"Second Offer"**). A redacted copy of the Second Offer is attached hereto as **Appendix "J"**. An unredacted copy of Mr. Fugiel's Second Offer is attached hereto as **Confidential Appendix "5"**.
5. On November 3, 2024, counsel for Mr. Fugiel provided the Receiver a copy of a conditional term sheet from Morris Financial Group ("**Morris**"), a lender based in New York and Tel Aviv (the "**Morris Term Sheet**"). The Morris Term Sheet was, among other things, subject to due diligence and credit committee approval. The Morris Term Sheet also had a confidentiality clause. As a consequence of the confidentiality clause, the Receiver is not attaching this commitment letter to its report. Counsel for Mr. Fugiel advised that this lender needs 14 days to complete its due diligence. A copy of the email from Mr. Fugiel's counsel without the attachment is attached as **Appendix "K"**.

6. On November 3, 2024, the Receiver sent an email to Mr. Fugiel's counsel, noting prior unfavorable experiences with Morris. The Receiver requested that counsel inform them if the financing became firm and advised that the Receiver would continue marketing the property in the meantime. A copy of this correspondence is attached as **Appendix "L"**.
7. On November 12, 2024, counsel for Mr. Fugiel wrote to the Receiver and its counsel to advise that another commitment for financing was coming shortly. Counsel for the Receiver replied to Mr. Fugiel's counsel and again reminded him that his client's offer will not be considered until evidence of financing is provided. Counsel for the Receiver also advised Mr. Fugiel's counsel that the Receiver has received another offer that it is considering. A copy of the email correspondence between counsel is attached as **Appendix "M"**.
8. On November 15, 2024, counsel for Mr. Fugiel provided a commitment letter from Fiducia Ventures Inc. A copy of the commitment letter is attached as **Appendix "N"**. The commitment letter included over 20 conditions, such as requirements for an appraisal, environmental reports, and development budgets. The commitment letter provided that the maximum proposed loan amount could not exceed 60% of the appraised value, which would require the Property to be valued at over \$36 million. The Receiver understands that the Real Property is worth substantially less than this amount.
9. The Receiver again advised counsel to Mr. Fugiel that it could not accept an offer conditional on financing and that it had entered into another transaction. A copy of the correspondence between the Receiver and Mr. Fugiel is attached as **Appendix "O"**.
10. Since then, counsel to Mr. Fugiel has requested a payout statement from MarshallZehr which was provided to Mr. Fugiel on December 5, 2024.
11. On December 8, 2024, counsel to Mr. Fugiel advised the Receiver that Mr. Fugiel intended to oppose approval of the Amended Transaction.

### **3.2 Recommendation to approve the Amended Transaction**

1. The Amended Transaction is substantially similar to the terms approved by the Court in June 2024, subject to the following amendments:
  - a) approximately 18% of the purchase price has now been received by the Receiver by way of deposits;
  - b) the purchase price was increased by \$50,000; and
  - c) the Purchaser will only assume the Sale Agreements once it gets HCRA approval, which it has over 90 days after closing to obtain. If the Purchaser does not obtain HCRA approvals, the deposits under the Sale Agreements will be fully refunded.

2. In addition to the reasons set out in the Third Report, the Receiver recommends the Court issue the proposed Approval and Vesting Order approving the Amended Transaction for the following reasons:
  - a) the process undertaken by the Receiver to market the Real Property was commercially reasonable and conducted in accordance with the terms of the Sale Process Order;
  - b) the Real Property has been listed for over a year, and the Transaction offers a path to conclude the receivership and minimize further professional fees and costs, including significant maintenance costs;
  - c) the Amended Transaction is unconditional, but for Court approval; and
  - d) MarshallZehr supports the Transaction.
3. Mr. Fugiel has had over a year to redeem or submit an offer to purchase the Real Property, and has failed to deliver any concrete offers that are acceptable to the Receiver or that would realistically materialize in a closeable transaction. Any further delays would prejudice the stakeholders and unnecessarily increase the costs of the proceedings.

#### 4.0 MarshallZehr Distribution

1. If the Transaction is approved, the Receiver is seeking authorization and direction to distribute the balance of the proceeds therefrom, after reserving for the closing costs (i.e. broker commissions, property taxes) and the costs of these proceedings (i.e. the fees and costs of the Receiver and its counsel) to: (i) repay the amounts owing under the Receiver's Borrowings Charge (which will be \$523,266.95 as at December 18, 2024); (ii) establish a reserve to fund any holdback deficiencies in respect of any valid construction liens on the Real Property, and (iii) repay a portion of the MarshallZehr Indebtedness.
2. MarshallZehr is the principal secured creditor of the Company. Attached as **Appendix "P"** is the discharge statement provided by MarshallZehr to December 18, 2024 (the "**Discharge Statement**"). The Discharge Statement discloses that MarshallZehr is owed \$20.9 million, of which approximately \$20.4 million is in respect of the MarshallZehr Indebtedness and approximately \$523,000 is in respect of the borrowings under the Receiver's Borrowings Charge.
3. The Receiver requested that Aird & Berlis LLP ("**A&B**"), as independent legal counsel, conduct a review of the security granted by the Company in respect of the MarshallZehr Indebtedness. A&B provided the Receiver with an opinion that, subject to standard assumptions and qualifications, pursuant to applicable security documentation, MarshallZehr has valid security interests or charge, as applicable, against the Property to be sold pursuant to the Amended Transaction.
4. There are eight construction liens totaling approximately \$13.6 million on the Property (collectively the "**Lien Claimants**"). Based on description of services provided in the liens, the claimants all provided services to Buttcon Limited ("**Buttcon**"). Buttcon's own lien is in the amount of approximately \$8.2 million.

5. The Receiver understands that the Company did not segregate any funds for holdback. The Receiver intends to carry out a process to establish whether any of the lien claimants could have a Priority Payable Claim that ranks ahead of MarshallZehr in respect of any deficiency in holdback (the “**Holdback Claims**”). A&B further advised that based on its review of the MarshallZehr loan and security documents, and the information relating to the timing and the nature of the loans, the maximum aggregate potential priority for the holdback claims for liens registered against the Real Property would be limited to the statutory 10% holdback of valid construction liens on the Real Property.
6. The Receiver has written to the Lien Claimants for more information regarding their Lien Claims.
7. To facilitate an interim distribution, while concurrently running this process, the Receiver seeks to establish a Holdback Reserve of approximately \$1.4 million, which exceeds 10% of the total amount of liens registered on the Real Property. Should the Receiver determine there are amounts that are in fact payable in priority to MarshallZehr, following a review of the applicable claims, the Receiver will seek to release funds from the Holdback Reserve with the consent of MarshallZehr and the applicable claimant or a further order of the Court.

## 5.0 Sealing

1. The Confidential Appendices contain the purchase price under the Amended Transaction and offers from Fugiel. These materials have been filed on a confidential basis as making this information publicly available may affect future offers submitted if the Amended Transaction does not close.
2. Temporarily sealing this information until the Amended Transaction closes is necessary to maximize recoveries in these proceedings and maintain the integrity and confidentiality of key information in the Sale Process. The salutary effects of sealing such information from the public record greatly outweigh any deleterious effects of doing so. The Receiver believes the proposed sealing of the Confidential Appendices is appropriate in these circumstances.

## 6.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that the Court make the orders granting the relief detailed in Section 1.1 (1)(g) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS RECEIVER OF  
LA PUE INTERNATIONAL INC.  
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

# APPENDIX A



**Third Report of  
KSV Restructuring Inc.  
as Receiver of  
La Pue International Inc.**

June 17, 2024



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## **Appendices**

Appendix A – Sale Process Order

Appendix B - Redacted Agreement of Purchase and Sale

Appendix C – Parcel Search for 5978 Allendale

Appendix D – Property Tax Certificate for 5978 Allendale

Appendix E – Notice of Sale of Framajo Enterprises Limited

Appendix F – Parcel Search for 6092 Allendale

Confidential Appendix 1 – Summary of Offers

Confidential Appendix 2 – Unredacted Agreement of Purchase and Sale



COURT FILE NO.: CV-23-00700695-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

MARSHALLZEHR GROUP INC.

APPLICANT

- AND -

LA PUE INTERANTIONAL INC.

RESPONDENT

THIRD REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER

JUNE 17, 2024

## 1.0 Introduction

1. This report (“**Report**”) is filed by KSV Restructuring Inc. (“**KSV**”) in its capacity as receiver (the “**Receiver**”) of the assets, undertakings, and properties of La Pue International Inc. (the “**Company**”) acquired for or used in relation to a business carried on by the Company.
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on October 19, 2023, KSV was appointed Receiver.
3. The Company’s principal asset is the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario (the “**Real Property**”). The principal purpose of the receivership proceeding is to market the Real Property for sale in a Court-supervised process.
4. On December 20, 2023, the Court issued an order (the “**Sale Process Order**”) approving a sale process for the Real Property and certain related assets (the “**Sale Process**”). A copy of the Sale Process Order is attached hereto as **Appendix “A”**.

### 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) summarize the results of the sale process for the Real Property;

- b) provide an update on the Allendale Properties (as defined below);
- c) recommend that the Court issue an order, among other things:
  - i. approving an Asset Purchase Agreement (the “**APA**”) between the Receiver and Lakeshore Luxe Design & Build Group (the “**Purchaser**”) and vesting title in and to the Property (as defined in the APA, including the Real Property) free and clear of all liens, claims and encumbrances (the “**Approval and Vesting Order**”);
  - ii. sealing the APA until the closing of the sale transaction contemplated therein (the “**Transaction**”);
  - iii. approving this Third Report and the Receiver’s conduct and activities described therein; and
  - iv. amending the Receivership Order to exclude 5978 Allendale (as defined below) from the definition of Property under the Receivership Order.

## 1.2 Currency

1. All currency references in this Report are to Canadian dollars, unless otherwise noted.

## 1.3 Restrictions

1. In preparing this Report, the Receiver has relied upon information, including financial information provided by Marshallzehr Group Inc. (“**Marshallzehr**”), the principal secured creditor of the Company. The Receiver has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
2. The Receiver expresses no opinion or other form of assurance with respect to the financial information presented in this Report or relied upon by the Receiver in preparing this Report. Any party wishing to place reliance on the Company’s financial information should perform its own diligence.

## 2.0 Background

1. The Company is a single purpose entity that owns the Real Property. Pawel Fugiel (“**Fugiel**”) is the sole officer and director of the Company.
2. The Company intended to develop and sell three mid-rise buildings consisting of one mixed-use, one hotel and one residential building on the Property (the “**Project**”). Prior to the receivership proceedings, the Company completed significant shoring and excavation work on the Project, although no other phases of construction have commenced.

3. Prior to the receivership proceedings, the Receiver understands the Company pre-sold 359 units (the “**Sale Agreements**”) and collected approximately \$31 million of deposits. The deposits are being held in trust with the surety.
4. The Receiver was appointed on an application by MarshallZehr. As at May, 2023, when MarshallZehr first served its receivership application, there was approximately \$13 million owing to MarshallZehr by the Company.
5. Sovereign General Insurance Company holds a second ranking charge in the principal amount of \$2 million as security for deposit insurance. SGIC also registered a financing statement against the Debtor under the *Personal Property Security Act* (Ontario) (“**PPSA**”).
6. In addition to a PPSA registration in favour of SGIC and MarshallZehr, as at the date of the Receiver’s appointment, five construction liens totalling approximately \$12.87 million were registered against the Real Property.
7. Following its appointment, on October 23, 2023, the Receiver wrote to Fugiel to request information regarding, among other things, the Company’s creditors. In November 2023, the Receiver also requested during telephone conversations with Fugiel that he provide, among other things, the Company’s books and records. Despite numerous follow up attempts via email and telephone calls, the information requested by the Receiver has not been provided.
8. As a consequence of Fugiel’s failure to cooperate, the Receiver was forced to incur additional costs to obtain the required information and documents, including copies of all existing Agreements of Purchase and Sale. The Receiver reserved its rights to bring a motion in the future to recover these costs from Fugiel.

## 3.0 Sale Process and the APA

### 3.1 Update on Sale Process

1. Colliers Macaulay Nicolls Inc. (“**Colliers**”) was retained by the Receiver as the listing agent pursuant to the terms of the Sale Process Order.
2. The Receiver carried out the Sale Process in accordance with the Sale Process Order. A summary of the Sale Process is as follows:

#### Pre-marketing Phase

- a) Immediately after the Sale Process Order was issued, the Receiver and Colliers assembled information to be used for due diligence purposes and uploaded this information to a virtual data room (“**VDR**”);
- b) Colliers and/or the Receiver prepared:
  - an investment summary detailing the acquisition opportunity (the “**Investment Summary**”);

- a confidentiality agreement (“**CA**”);
- a VDR, which included, among other things, various reports concerning the Real Property, including environmental reports, site plans and a budget to build-out the Project which was commissioned by the Receiver;
- a form of asset purchase agreement. Pursuant to the terms of the Sale Process, the Receiver recommended that interested parties submit their offers using this agreement and blackline any changes to it. A copy of the form of asset purchase agreement was made available in the VDR; and
- a Confidential Information Memorandum (“**CIM**”), which included a summary of the Real Property and details concerning the Sale Process.

### Marketing Phase

- a) on January 17, 2024, Colliers sent the Investment Summary to over 4,700 parties in its database, including real estate developers in the Niagara region;
- b) the CA was attached to the Investment Summary. To obtain a copy of the CIM and access to the VDR, interested parties were first required to sign the CA;
- c) the listing was posted on the Real Estate Board Multiple Listing Services (“**MLS**”);
- d) the Receiver, in conjunction with Colliers, set a “bid not before date” of March 22, 2024 at 5:00 p.m. (Toronto time).

### 3.2 Sale Process Results

1. A summary of the results of the Sale Process is as follows:
  - a) 22 parties executed the CA and were provided a copy of the CIM and access to the VDR; and
  - b) 2 parties submitted offers. An offer summary in respect of the final bids received for the Real Property (the “**Offer Summary**”) is attached as **Confidential Appendix “1”**.
2. Following extensive negotiations between the Receiver and the Purchaser, the Receiver entered into the APA, subject to the approval of the Court. Attached as **Appendix “B”** is a copy of the APA with the purchase price redacted. An unredacted copy of the APA will be filed with the Court as **Confidential Appendix “2”**. The Receiver’s recommendation regarding sealing this information is discussed in Section 3.4 below.

### 3.3 The Transaction

1. The key terms of the APA are provided below. Reference should be made directly to the APS for all of its terms and conditions:
  - **Purchased Assets:** means the Company's right, title and interest in the Real Property, the assumed Sale Agreements and deposits thereunder, all permits and project documents;
  - **Purchase Price:** the Receiver seeks an order sealing the purchase price under the APA until the closing of the Transaction. The purchase price under the APA is higher than any other offer received by the Receiver in the sale process;
  - **Excluded Assets:** the Purchaser may, at its option and upon written notice to the Receiver not less than two business days prior to closing, exclude any of the Purchased Assets from the Transaction. In the event that the Purchaser exercises such option, there shall be no reduction and/or abatement to the Purchase Price as a result of such exclusions;
  - **Deposits:** a first deposit in the amount of \$500,000 was received by the Receiver (the "**First Deposit**"). At the request of MarshallZehr, the Company's senior secured lender, and notwithstanding the fact that the Second Deposit (as defined in the APA) was not received, the Receiver will proceed to obtain the Approval and Vesting Order and close the Transaction. Marshallzehr has made this request so that the Transaction can close expediently once all conditions have been satisfied or waived. The First Deposit will be forfeited by the Purchaser if the Transaction is approved and does not close;
  - **Conditions:** the APA was conditional on the purchaser completing or waiving its due diligence inspection condition. This condition was waived on April 30, 2024. The only material outstanding condition under the APA is the Receiver obtaining the Approval and Vesting Order;
  - **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:** the Transaction shall be completed seven (7) business days following the date on which the Approval and Vesting Order is granted.
2. The Receiver recommends the Court issue the proposed Approval and Vesting Order approving the Transaction for the following reasons:
  - a) the process undertaken by the Receiver to market the Real Property was commercially reasonable and conducted in accordance with the terms of the Sale Process Order;
  - b) Colliers has extensive experience selling development properties and widely canvassed the market for prospective purchasers;
  - c) the Purchaser's offer represents the highest and best offer received for the Real Property;

- d) the Receiver and Colliers are of the view that the Transaction provides for the greatest recovery available for the benefit of the Company's stakeholders in the circumstances; and
- e) MarshallZehr consents to the Transaction.

### 3.4 Sealing

1. The Receiver recommends that the Offer Summary and an unredacted copy of the APA be filed with the Court on a confidential basis and remain sealed until the closing of the Transaction. These documents contain confidential information, including with respect to value of the Real Property, the identity of the bidders and the value of the other bids received that could adversely impact the future marketability of the Real Property should the Transaction not close.
2. Sealing this information is necessary to maximize recoveries in these proceedings and maintain the integrity and confidentiality of key information in the sale process.
3. The salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so under the circumstances. The Receiver is not aware of any party that will be prejudiced if the information is sealed or any public interest that will be served if such details are disclosed in full. The Receiver is of the view that the sealing of the Confidential Appendix is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25. Accordingly, the Receiver believes the proposed sealing of the Confidential Appendix is appropriate in the circumstances.

### 4.0 The Allendale Properties

1. After its appointment as Receiver, the Receiver learned that in addition to the Real Property, the Company was also the registered owner of two small adjacent lots municipally known as 5978 Allendale Avenue, Niagara Falls, Ontario ("**5978 Allendale**") and 6092 Allendale Avenue, Niagara Falls, Ontario ("**6092 Allendale**", and together, the "**Allendale Properties**").
2. Attached hereto as **Appendix "C"** is the parcel search for 5978 Allendale that discloses the following registrations against this property:
  - a) a first ranking charge in favour of Framajo Enterprises Limited ("**Framajo**"), as amended, in the principal amount of \$1,100,000;
  - b) a second ranking charge in the principal amount of \$800,000 in favour of Tomasz Sobota, Andrzej Zalewski and Daniela Lupu; and
  - c) a construction lien in favour of Buttcon Limited in the amount of \$8,205,941.
3. The Receiver was provided with a copy of the tax certificate with respect to this property as at April 24, 2024, a copy of which is attached hereto as **Appendix "D"** that discloses that as at April 24, 2024, there were outstanding property taxes on this property in the amount of \$20,267.29.

4. The Receiver was advised that Framajo issued a Notice of Sale to the Company, a copy of which is attached hereto as **Appendix “E”**. In the Notice of Sale, Framajo states that the amounts owing under its first mortgage is \$1,458,429.57.
5. Counsel for the Receiver requested and received copies of Framajo’s loan and security documents together with evidence of advances. Following its review of the documents provided, counsel for the Receiver has opined that Framajo has a validly secured first mortgage against 5978 Allendale.
6. The Receiver has obtained an opinion of value for this property from Colliers which disclosed that the value of this property is less than the amount owing to Framajo under its first mortgage.
7. Framajo has requested that it be permitted to proceed to enforce mortgage against 5978 Allendale under power of sale. In light of the value of this property and the amounts owing to Framajo, the Receiver has agreed to request an amendment to the Receivership Order that excludes 5978 Allendale from the definition of Property subject to this receivership.
8. Attached hereto as **Appendix “F”** is the parcel search for 6092 Allendale. The search discloses the following registrations against this property in order of registration:
  - a) Charge in the principal amount of \$1,505,000 in favour of Jaroslaw Proborszcz and Yasmeeen Moroz; and
  - b) A charge in the principal amount of \$820,000 in favour of Dariusz Konopka and Aleksander Jacak.
9. The Receiver was contacted by Marek Tufman, who advised that he is acting as legal counsel for all of the parties holding a registered mortgage against 6092 Allendale. The Receiver and its counsel were advised by Mr. Tufman that his clients also wish to proceed with enforcement on their mortgages. Counsel for the Receiver and Mr. Tufman are continuing to engage in discussions about this request.

## 5.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that the Court make an order granting the relief detailed in Section 1.1 (1)(c) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS RECEIVER OF  
LA PUE INTERNATIONAL INC.  
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**



# APPENDIX B

Court File No. CV-23-00700695-00CL

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

THE HONOURABLE MR. ) FRIDAY, THE 21<sup>ST</sup>  
 )  
JUSTICE PENNY ) DAY OF JUNE, 2024  
 )

**BETWEEN:**

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**ORDER  
(Sale Approval)**

**THIS MOTION**, made by KSV Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets (the “**Property**”) of La Pue International Inc. (the “**Debtor**”) for an order, among other things:

- (a) validating service of the Receiver’s Notice of Motion and Motion Record;
- (b) approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Sale Agreement**”), between the Receiver and Lakeshore Luxe Design & Build Group (“**Lakeshore**”), appended as Confidential Appendix 2 to the Receiver’s Third Report to the Court dated June 17, 2024 (the “**Third Report**”) and vesting in 1000835091 Ontario Inc. (the “**Purchaser**”), as assignee of Lakeshore, the Debtor’s right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), including the lands and premises located at the real property municipally

known as 5528 Ferry Street, Niagara Falls, Ontario and legally described in **Schedule “A”** hereto (the **“Real Property”**);

- (c) sealing Confidential Appendix 1 and 2 to the Third Report (collectively, the **“Confidential Appendices”**) pending the closing of the Transaction or a further order of the Court;
- (d) approving the Third Report and the conduct and activities of the Receiver defined therein; and
- (e) amending the Order of the Honourable Mr. Justice Cavanagh dated October 19, 2023 to exclude the property municipally defined as 5978 Allendale Avenue, Niagara Falls, Ontario from this proceeding,

was heard this day at 330 University Avenue.

**ON READING** the Third Report, and on hearing the submissions of counsel for the Receiver and such other parties shown on the Participant Information Form filed with the Court:

### **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.

### **APPROVAL OF ACTIVITIES**

2. **THIS COURT ORDERS** that the Third Report, and the actions and activities of the Receiver described therein be and are hereby approved, provided, however, that only KSV Restructuring Inc., in its personal capacity and only with respect to its own liability, shall be entitled to rely on or utilize in any way such approval.

### **APPROVAL OF THE TRANSACTION AND VESTING ORDER**

3. **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 Purchased Assets to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), the Purchased Assets, including 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, taxes, including real property taxes, 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 Cavanagh dated October 19, 2023 (the "**Receivership Order**"); (ii) all charges, security interests or claims evidenced by registrations 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 Real Property are hereby expunged and discharged as against the Real Property.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Niagara (South) (No. 59) 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 Real Property in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Encumbrances listed in Schedule "C" hereto.

6. **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.

7. **THIS COURT ORDERS** that notwithstanding anything else contained herein, the "Property" as defined in the preamble of this Order and the Purchased Assets vesting in the Purchaser shall not include any current or future funds related to deposits held in trust by any law firm acting on behalf of a the Deposit Insurer, Sovereign General Insurance Company or the Debtor with respect to the purchase of a residential unit located on any of the Real Property, including, without limitation, the deposits held by Sullivan Mahoney LLP in trust related to a residential development known as The Stanley District containing 435 residential dwelling units at Ferry Street in the City of Niagara Falls (the "**Deposits**"). Further, nothing in this Order shall, or is intended to, entitle or grant the Purchaser any interest in the Deposits.

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

9. **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 the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

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 the Debtor and shall not be void or voidable by creditors of the Debtor, 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.

10. **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.

**5978 ALLENDALE**

11. **THIS COURT ORDERS** that paragraph 1 of the Receivership Order be deleted and be replaced with the following:

- 1. **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 all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**"), including, without limitation, the real property described in Schedule "A" attached hereto, **but excluding the real property municipally known as 5978 Allendale Avenue, Niagara Falls, Ontario and legally described as:**

PIN: 64349-0178 (LT)

Description: Lot 54 Plan 273 Village of Niagara Falls; Niagara Falls (Amended by Registrar #27 1999/11/26 at 15:19pm)



**Schedule “A” – Real Property**

**Municipal Address:** 5528 Ferry Street, Niagara Falls, Ontario

**PIN:** 64349-0258 (LT)

**Property Description:** Firstly: Lots 46, 51, 52, 61, 62, 63, 64 & 65, Plan 273 & Part Lots 43, 44, 45, 47, 48, 49 & 50, Plan 273, Village of Niagara Falls, Parts 1 & 3 Plan 59R17206; Secondly: Surface Rights Only (as in RO718049), Part Lots 47, 48, 49 & 50 Plan 273, Village of Niagara Falls, Part 2 Plan 59R17206; subject to an Easement over Parts 1 & 2 59R17292 in favour of Part Lots 41 & 42 Plan 273 as in RO441658 as in SN754703; City of Niagara Falls

**Schedule “B” – Form of Receiver’s Certificate**

Court File No. CV-23-00700695-00CL

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

**BETWEEN:**

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated October 19, 2023, KSV Restructuring Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of La Pue International Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated June 21, 2024 (“**Approval and Vesting Order**”), the Court approved the asset purchase agreement (the “**Sale Agreement**”) between the Receiver and Lakeshore Luxe Design & Build Group (the “**Purchaser**”) and provided for the vesting in the Purchaser all of the Debtor’s right, title and interest in and to the Purchased Assets, 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 contemplated by the Sale Agreement (the “**Transaction**”) has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Approval and Vesting Order.

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.; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ on • \_\_\_\_\_ , 2024.

**KSV RESTRUCTURING INC., solely in its capacity as Court-Appointed Receiver of La Pue International Inc. and not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

**Schedule “C” – Encumbrances to be deleted and expunged from title to Real Property.**

<b>No.</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>Instrument Type</b>	<b>Amount</b>	<b>Encumbrancers</b>
1.	SN549654	2018/04/20	Transfer	\$2,100,000	
2.	SN549655	2018/04/20	Transfer	\$250,000	
3.	SN549656	2018/04/20	Transfer	\$2,000,000	
4.	SN644659	2020/10/02	Charge	\$2,000,000	The Sovereign General Insurance Company
5.	SN658896	2021/01/26	Notice	\$1	The Sovereign General Insurance Company
6.	SN703091	2021/12/01	Charge	\$13,800,000	MarshallZehr Group Inc.
7.	SN703094	2021/12/01	Notice of Assignment of Rents – General		MarshallZehr Group Inc.
8.	SN703098	2021/12/01	Postponement		MarshallZehr Group Inc.
9.	SN703255	2021/12/01	Application to Annex Restrictive Covenants S.118		MarshallZehr Group Inc.
10.	SN743390	2022/09/26	Notice of Change of Address		MarshallZehr Group Inc.
11.					
12.					
13.					
14.	SN758055	2023/02/22	Construction Lien	\$3,673,337	HC Matcon Inc.
15.	SN759949	2023/03/15	Construction Lien	\$841,498	Kada Group Inc.
16.	SN760306	2023/03/17	Construction Lien	\$8,205,941	Buttcon Limited

17.	SN761643	2023/03/31	Construction Lien	\$123,734	Kada Group Inc.
18.					
19.	SN764799	2023/05/01	Certificate		HC Matcon Inc.
20.	SN767364	2023/05/26	Construction Lien	\$23,278	TT Galbraith Electric Ltd
21.	SN769190	2023/06/12	Certificate		Buttcon Limited
22.	SN770167	2023/06/21	Certificate		Kada Group Inc.
23.	SN771564	2023/07/04	Construction Lien	\$43,630	HC Matcon Inc.
24.	SN772841	2023/07/14	Certificate		HC Matcon Inc.
25.	SN787037	2023/11/29	Construction Lien	\$254,023	HC Matcon Inc.
26.	SN788992	2023/12/18	Certificate		HC Matcon Inc.

**Schedule “D” – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

1. Any reservations, restrictions, rights of way, easements or covenants that run with the land;
2. Any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
3. All laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
4. Any minor easements for the supply of utility services or other services to the Lands or Buildings, if any, or adjacent properties;
5. Encroachments disclosed by any error or omission in existing surveys of the Lands or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Lands and survey of the Lands and survey matters generally;
6. The exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
7. Any reservation(s) contained in the original grant from Crown;
8. Subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14.
9. Provincial succession duties and escheats or forfeiture to the Crown;
10. The rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
11. Any lease to which subsection 70(2) of the *Registry Act* (Ontario) applies; and

12. The following instruments registered on title to the Premises:

No.	Registration No.	Registration Date	Instrument Type	Parties To
1.	SN613492	2019/12/12	Application to Consolidate	
2.	SN629148	2020/05/14	Notice	The Corporation of the City of Niagara Falls
3.	SN642462	2020/09/18	Notice	The Corporation of the City of Niagara Falls
4.	59R16793	2020/10/01	Plan Reference	
5.	SN666113	2021/03/22	Application Bylaw Deeming Plan Not A Plan	The Corporation of the City of Niagara Falls
6.	SN666891	2021/03/26	Notice	The Corporation of the City of Niagara Falls
7.	59R17206	2022/03/11	Plan Reference	
8.	SN716940	2022/03/11	Application Absolute Title	La Pue International Inc.
9.	SN721529	2022/04/12	Application (General)	The Corporation of the City of Niagara Falls
10.	SN721530	2022/04/12	Application (General)	The Corporation of the City of Niagara Falls
11.	SN721531	2022/04/12	Application (General)	The Corporation of the City of Niagara Falls
12.	SN723231	2022/04/26	Notice	The Corporation of the City of Niagara Falls
13.	59R17292	2022/06/13	Plan Reference	
14.	SN754703	2023/01/13	Transfer Easement	Anastasia Georgina Loukas and 2779006 Ontario Inc.
15.	SN754704	2023/01/13	Postponement	Anastasia Georgina Loukas and 2779006 Ontario Inc.
16.	SN754705	2023/01/13	Postponement	Anastasia Georgina Loukas and 2779006 Ontario Inc.
17.	SN754853	2023/01/16	Land Registrar's Order	Land Registrar, Niagara South Land Registry Office
18.	SN763208	2023/04/17	Notice	Anastasia Georgina Loukas and 2779006 Ontario Inc. and La Pue International Inc.

**MARSHALLZEHR GROUP INC.**  
Applicant

- and -

**LA PUE INTERNATIONAL INC.**  
Respondent  
Court File No. CV-23-00700695-00CL

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceedings commenced at TORONTO

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**APPROVAL AND VESTING ORDER**

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**CHAITONS LLP**  
5000 Yonge Street, 10th Floor  
Toronto, ON M2N 7E9

**Maya Poliak (54100A)**  
Tel: (416) 218-1161  
Email: [maya@chaitons.com](mailto:maya@chaitons.com)

Lawyers for KSV Restructuring Inc. Court-  
appointed Receiver





SUPERIOR COURT OF JUSTICE

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-23-00700695-00CL

DATE: June 21, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: Marshallzehr Group Inc. vs. La Pue International Inc., et al

BEFORE: JUSTICE PENNY

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

Name of Person Appearing	Name of Party	Contact Info
Harvey Chaiton, Chaitons, LLP	Receiver, KSV Restructuring Inc.	<a href="mailto:harvey@chaitons.com">harvey@chaitons.com</a>

**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
Howard Manis Manis Law	La Pue International Inc.	<a href="mailto:hmanis@manislaw.ca">hmanis@manislaw.ca</a>
Hayden Trbizan Weirfoulds LLP	Kada Group Inc.	<a href="mailto:htrbizan@weirfoulds.com">htrbizan@weirfoulds.com</a>
George Corsianos Corsianos Lee Vashishth LLP	1000835091 Ontario Inc.	<a href="mailto:gcorsianos@clvlaw.ca">gcorsianos@clvlaw.ca</a>
Andrew Beney Pavey Law LLP	HC Matcon Inc.	<a href="mailto:beney@paveylaw.com">beney@paveylaw.com</a>
Valerie Calvano, Borden Ladner Gervais	The Sovereign General Insurance Company	<a href="mailto:vcalvano@blg.com">vcalvano@blg.com</a>
Fernando Souza Bisceglia & Associates	Buttcon Limited	<a href="mailto:fsouza@lawtoronto.com">fsouza@lawtoronto.com</a>

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info



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**ENDORSEMENT OF JUSTICE PENNY:**

- [1] The Receiver moves for an approval and vesting order regarding the sale of 5528 Fairy St. Niagara Falls, a limited sealing order with respect to certain confidential appendices relating to this transaction, approval of the Receiver's third report and appendices and a minor variation to receivership order of Justice Cavanagh to exclude 5978 Allandale from the definition of "Property" under the original receivership order.
- [2] I satisfied that the sales process was commercially reasonable and conducted in accordance with this court's order. The agent has extensive experience selling development properties and widely canvassed the market. The purchaser's offer represents the highest and best offer received for the property. The Receiver and the agent are of the view that the transaction provides the greatest recovery available for the benefit of the debtor's stakeholders in the circumstances, including the mortgagees and the lien claimants. Further, MZ, the senior secured lender, consents to the transaction.
- [3] The limited sealing order being sought is necessary to preserve the Receiver's ability to maximize value in the event this transaction does not close. I am satisfied that the requested sealing order for the confidential appendices meets the test in *Sierra Club/Sherman Estates* and that disclosure of this information would pose a risk to the public interest in enabling stakeholders of a company in receivership to maximize the realization of assets. I direct counsel for the Receiver to file a hard copy of the confidential appendices with the Commercial List office in a sealed envelope with a copy of the ARO and this Endorsement.
- [4] The activities of the Receiver described on in its Third Report were all necessary and undertaken in good faith. The report/activities are approved.
- [5] After its appointment, the Receiver learned that the debtor was also the registered owner of two small adjacent lots. One of those lots is 5978 Allandale. That property is subject to the first ranking charge of a third party (who is seeking to exercise rights to a power of sale) of over \$1.4 million. The Receiver has concluded this is a valid charge. The Receiver has also concluded that the amount of this charge exceeds the value of the property. Accordingly, the Receiver seeks to exclude 5978 Allandale from the definition of "Property" under the receivership order. This will, among other things, leave the mortgagee free to pursue its remedies and simplify the administration of the receivership. This is a reasonable request in the circumstances and is granted.
- [6] Order to issue in the form signed by me this day.

A handwritten signature in blue ink, appearing to read "Penny J.", followed by a period.

Penny J.

# APPENDIX C

July 4, 2024

VIA EMAIL TO [jlee@clvlaw.ca](mailto:jlee@clvlaw.ca)

Jacob H.C. Lee  
Corsianos Lee Vashishth LLP  
6 Ronrose Drive, Suite 301  
Vaughan, ON L4K 4R3

**Re: *KSV Restructuring Inc. in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without personal liability, (the "Vendor") sale to Lakeshore Luxe Design & Build Group Inc., as assigned to 1000835091 Ontario Inc., (collectively, the "Purchaser") of the lands and premises municipally known as 5528 Ferry Street, Niagara Falls, Ontario, as legally described in PIN 64349-0258 (LT) pursuant to an asset purchase agreement dated as of the 4<sup>th</sup> day of April, 2024, as subsequently assigned (collectively, the "Purchase Agreement")***

Dear Sir,

On behalf of the Vendor, we hereby confirm that the Purchaser has failed to complete the captioned transaction due to the Purchaser's failure to provide the balance of the closing funds and the executed closing documentation on the scheduled closing date of July 2, 2024.

In accordance with Paragraphs 6(c) and 29 of the Purchase Agreement, we confirm on behalf of the Vendor that same is hereby terminated effective immediately and, as a result, the Vendor will be retaining the deposit previously paid by the Purchaser as liquidated damages without prejudice to any other rights it may have under the Purchase Agreement and at law without further notice to you or your client.

Yours truly,  
CHAITONS LLP

*Mark Willis-O'Connor*  
(computer generated signature)

Mark Willis-O'Connor  
PARTNER\*

\*Denotes Professional Corporation

# APPENDIX D

## REINSTATEMENT AND AMENDING AGREEMENT

THIS AGREEMENT is made as of the 12<sup>th</sup> day of July, 2024 (the "Effective Date").

### BETWEEN:

**KSV RESTRUCTURING INC.,**  
in its capacity as Court-appointed receiver of La Pue International Inc.  
and not in its personal or corporate capacity and without personal or corporate liability  
(the "Vendor")

- and -

**1000835091 ONTARIO INC.**  
(the "Purchaser")

### WHEREAS:

- A. The Vendor and Lakeshore Luxe Design & Build Group Inc. (the "Original Purchaser") entered into an asset purchase agreement dated as of the 4<sup>th</sup> day of April, 2024 (the "Original Purchase Agreement"), pursuant to which the Vendor agreed to sell and the Original Purchaser agreed to purchase, *inter alia*, those lands and premises municipally known as 5528 Ferry Street, Niagara Falls, Ontario, as legally described in PIN 64349-0258 (LT);
- B. The Original Purchaser assigned all of its right, title and interest in the Original Purchase Agreement to the Purchaser pursuant to an Assignment of Agreement of Purchase and Sale dated as of June 11, 2024 (the "Assignment Agreement"), provided that the Assignment Agreement shall not release the Original Purchaser from its obligations under the Original Purchase Agreement;
- C. The Vendor terminated the Original Purchase Agreement, as assigned pursuant to the Assignment Agreement, (collectively, the "Purchase Agreement") pursuant to a termination letter to the Purchaser dated July 4, 2024;
- D. The Vendor and the Purchaser have agreed to reinstate, confirm, ratify and amend the Purchase Agreement in accordance with and subject to the terms and conditions hereof; and
- E. Unless otherwise specifically defined in this Agreement or the context otherwise requires, any capitalized terms used in this Agreement shall have the meanings assigned thereto in the Purchase Agreement.

**NOW THEREFORE** in consideration of the sum of the Two (\$2.00) Dollars now paid to each Party, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

1. The Parties hereby reinstate, confirm, ratify and agree to be bound by the terms of the Purchase Agreement in accordance with and subject to the terms and conditions hereof.
2. The Parties hereby acknowledge and agree that:
  - (a) Subsection 1(r) is hereby deleted in its entirety and replaced with the following:


"Deposit" means collectively, the First Deposit, the Second Deposit, the Third Deposit and the Fourth Deposit;
  - (b) Section 4 is hereby deleted in its entirety and replaced with the following:

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets shall be the sum of [REDACTED] (the "Purchase Price").
  - (c) The Closing Date is hereby extended to September 6, 2024.
  - (d) The First Deposit is hereby deemed to be non-refundable to the Purchaser and fully earned and released to the Vendor on the Effective Date. In this regard, (i) the Purchaser hereby irrevocably authorizes and directs the Vendor to release the First Deposit (together with any interest thereon) from trust as forfeited to the Vendor and (ii) if the Transaction is completed on the Closing Date in accordance with the provisions of the Purchase Agreement, as amended by this Agreement, the First Deposit shall be credited against the balance of the Purchase Price payable by the Purchaser on the Closing Date.
  - (e) The Purchaser (i) delivered payment of the Second Deposit to the Vendor's Solicitors on July 11, 2024 and (ii) hereby irrevocably authorizes and directs the Vendor's Solicitors to release the Second Deposit to the Vendor, in trust. Provided that in the event that the Purchase Agreement is terminated due to the Purchaser's default thereunder, the Second

Deposit (together with any interest thereon) shall, without the requirement of any further action by the Parties, be immediately thereafter released from trust and forfeited to the Vendor as liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under the Purchase Agreement and at law.

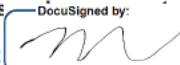
- (f) The Purchaser shall pay, as a further deposit towards the balance of the Purchase Price due on Closing, by wire transfer, the amount of [REDACTED] (the "Third Deposit") to the Vendor, in trust, on or before July 22, 2024. Provided that in the event that the Purchase Agreement is terminated due to the Purchaser's default thereunder, the Third Deposit (together with any interest thereon) shall, without the requirement of any further action by the Parties, be immediately thereafter released from trust and forfeited to the Vendor as liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under the Purchase Agreement and at law.
  - (g) The Purchaser shall pay, as a further deposit towards the balance of the Purchase Price due on Closing, by wire transfer, the amount of [REDACTED] (the "Fourth Deposit") to the Vendor, in trust, on or before August 1, 2024. Provided that in the event that the Purchase Agreement is terminated due to the Purchaser's default thereunder, the Fourth Deposit (together with any interest thereon) shall, without the requirement of any further action by the Parties, be immediately thereafter released from trust and forfeited to the Vendor as liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under the Purchase Agreement and at law.
3. The Purchaser acknowledges and agrees that the Vendor may rely on the terms of this Agreement as a full estoppel to any proceeding, suit, claim motion or other action brought by the Purchaser to seek relief from forfeiture of the Deposit, or any portion thereof, to the Vendor.
  4. All other terms and conditions of the Purchase Agreement shall remain the same and time shall continue to be of the essence.
  5. This Agreement shall be binding upon the Parties and their respective successors and assigns.
  6. This Agreement shall be governed by and construed in accordance with the Law of the Province of Ontario and the Law of Canada applicable in that Province.
  7. This Agreement may be executed in counterparts and transmitted by electronic transmission, each of which, when so executed and transmitted, shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.
  8. In the event of any discrepancy between the provisions of this Agreement and the provisions of the Purchase Agreement, the provisions of this Agreement shall prevail and the Purchase Agreement shall be deemed to be amended to incorporate same.

[Signature Page Follows]

DocuSigned by:  
  
0933A59F063849C...

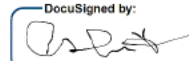
IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the date first above written.

**KSV RESTRUCTURING INC.**, in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without pers... ability

DocuSigned by:   
Per: \_\_\_\_\_  
Name: 07FC5B52A0B74D7  
Title: Managing Director

I have authority to bind the Receiver.

**1000835091 ONTARIO INC.**

DocuSigned by:   
Per: \_\_\_\_\_  
Name: 0933A55F063849C Anthony De Francesco  
Title: Authorized Signing Officer

I have authority to bind the Corporation.

# APPENDIX E



July 29, 2024

VIA EMAIL TO [pmand@mandlaw.com](mailto:pmand@mandlaw.com)

Paul H. Mand  
Mand Rai LLP  
155 Rexdale Blvd., Suite 400  
Toronto, ON M9W 5Z8

**Re: *KSV Restructuring Inc. in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without personal liability, (the "Vendor") sale to Lakeshore Luxe Design & Build Group Inc., as assigned to 1000835091 Ontario Inc., (collectively, the "Purchaser") of the lands and premises municipally known as 5528 Ferry Street, Niagara Falls, Ontario, as legally described in PIN 64349-0258 (LT) pursuant to an asset purchase agreement dated as of the 4<sup>th</sup> day of April, 2024, as subsequently assigned pursuant to an Assignment of Asset Purchase Agreement dated as of the 12<sup>th</sup> day of July, 2024 and as subsequently amended pursuant to a Reinstatement and Amending Agreement dated as of the 12<sup>th</sup> day of July, 2024 (collectively, the "Purchase Agreement")***

Dear Sir,

On behalf of the Vendor, we hereby confirm that the Purchaser has failed to pay the Third Deposit (as defined in the Purchase Agreement) on or before July 22, 2024 pursuant to the terms of the Purchase Agreement.

In accordance with Paragraphs 6(c) and 29 of the Purchase Agreement, we hereby confirm on behalf of the Vendor that same is hereby terminated effective immediately. Accordingly, this is to advise that the Vendor will be retaining the deposits previously paid by the Purchaser as liquidated damages without prejudice to any other rights it may have under the Purchase Agreement and at law without further notice to you or your client.

Yours truly,  
CHAITONS LLP

*Mark Willis-O'Connor*  
(computer generated signature)

Mark Willis-O'Connor  
PARTNER\*

\*Denotes Professional Corporation

c: KSV Restructuring Inc.

# APPENDIX F

## SECOND REINSTATEMENT AND AMENDING AGREEMENT

THIS AGREEMENT is made as of the 8th day of October, 2024 (the "Effective Date").

### BETWEEN:

**KSV RESTRUCTURING INC.,**  
in its capacity as Court-appointed receiver of La Pue International Inc.  
and not in its personal or corporate capacity and without personal or corporate liability  
(the "Vendor")

- and -

**1000835091 ONTARIO INC.**  
(the "Purchaser")

### WHEREAS:

- A. The Vendor and Lakeshore Luxe Design & Build Group Inc. (the "Original Purchaser") entered into an asset purchase agreement dated as of the 4<sup>th</sup> day of April, 2024 (the "Original Purchase Agreement"), pursuant to which the Vendor agreed to sell and the Original Purchaser agreed to purchase, *inter alia*, those lands and premises municipally known as 5528 Ferry Street, Niagara Falls, Ontario, as legally described in PIN 64349-0258 (LT);
- B. The Original Purchaser assigned all of its right, title and interest in the Original Purchase Agreement to the Purchaser pursuant to an Assignment of Agreement of Purchase and Sale dated as of June 11, 2024 as subsequently replaced by an Assignment of Asset Purchase Agreement dated as of July 12, 2024 (the "Assignment Agreement"), provided that the Assignment Agreement shall not release the Original Purchaser from its obligations under the Original Purchase Agreement;
- C. The Vendor has obtained the Approval and Vesting Order of The Honourable Justice Penny of the Ontario Superior Court of Justice (Commercial List) (Court File No. CV-23-00700695-00CL) dated June 21, 2024 approving the transaction contemplated in the Purchase Agreement (as hereinafter defined);
- D. The Vendor terminated the Original Purchase Agreement, as assigned pursuant to the Assignment Agreement, (which, together with any amendments thereof, shall hereinafter be collectively referred to as the "Purchase Agreement") pursuant to a termination letter to the Purchaser dated July 4, 2024 due to the Purchaser's failure to provide the balance of the closing funds and the executed closing documentation on the Closing Date;
- E. The Vendor and the Purchaser entered into a Reinstatement and Amending Agreement dated as of July 12, 2024 (the "First Reinstatement and Amending Agreement") to reinstate, confirm, ratify and amend the Purchase Agreement in accordance with and subject to the terms and conditions thereof;
- F. The Vendor terminated the reinstated Purchase Agreement pursuant to a letter dated July 29, 2024 (the "Termination Letter") due to the Purchaser's failure to pay the Third Deposit (as defined in the First Reinstatement and Amending Agreement);
- G. Notwithstanding the issuance of the Termination Letter, the Vendor and the Purchaser have agreed to further reinstate, confirm, ratify and amend the Purchase Agreement in accordance with and subject to the terms and conditions hereof;
- H. This Agreement is conditional on the Vendor obtaining a Court order (the "Reinstatement Order") authorizing and ratifying the Vendor's execution of this Agreement and approving the Transaction (as hereby further reinstated, confirmed, ratified and amended) in accordance with and subject to the terms and conditions hereof (the "Vendor's Condition"). Provided that the Vendor's Condition is inserted for the sole benefit of the Vendor and the Vendor may waive same without prejudice to its right of termination in the event of the non-fulfillment of any other terms and conditions of the Purchase Agreement; and
- I. Unless otherwise specifically defined in this Agreement or the context otherwise requires, any capitalized terms used in this Agreement shall have the meanings assigned thereto in the Purchase Agreement.

**NOW THEREFORE** in consideration of the sum of the Two (\$2.00) Dollars now paid to each Party, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

1. The above recitals are true and correct in substance and in fact.
2. The Parties hereby further reinstate, confirm, ratify and agree to be bound by the terms of the Purchase Agreement in accordance with and subject to the terms and conditions hereof.

3. The Parties hereby acknowledge and agree that:

- (a) Subsection 1(r) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

**"Deposit"** means collectively, the First Deposit, the Second Deposit and the Third Deposit;

- (b) Subsection 1(tt) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

**"Purchaser's Solicitors"** means the firm of Miller Thomson LLP, 100 New Park Place, Suite 700, Vaughan, Ontario (Attention: Michael Carli, E-mail: mcarli@millerthomson.com);

- (c) Provided that the Vendor has not theretofore waived the Vendor's Condition, within five (5) Business Days following the Purchaser's payment of the Third Deposit pursuant to the terms hereinafter set out, the Vendor will seek an appointment with the Court for a motion to be heard within thirty (30) days, or otherwise as soon as reasonably possible, to seek the Reinstatement Order (the **"Outside Date"**). The Purchaser shall, at its sole cost and expense, promptly provide to the Vendor all such information and assistance as the Vendor may reasonably require to obtain the Reinstatement Order. In the event that the Court does not grant the Reinstatement Order as aforesaid prior to the Outside Date, and the Vendor has not theretofore waived the Vendor's Condition, the Purchase Agreement shall be deemed automatically terminated and the (i) Third Deposit shall be returned to the Purchaser without deduction and/or interest and (ii) Purchaser acknowledges and agrees that it shall have no further rights or remedies against the Vendor arising out of the termination of the Purchase Agreement including without limitation in respect of the forfeiture and release of the First Deposit and the Second Deposit to the Vendor.

- (d) The Closing Date is hereby designated as the date that is seven (7) Business Days following the date on which the (i) Reinstatement Order is granted or (ii) Vendor waives the Vendor's Condition, as applicable, or such other date as the Parties agree in writing.

- (e) The balance of the Purchase Price due on the Closing Date shall be paid by the Purchaser to the Vendor by way of certified cheque, bank draft or wire transfer, or as the Parties may otherwise agree in writing.

- (f) Subsection 2(d) of the First Reinstatement and Amending Agreement is hereby deleted in its entirety and replaced with the following:

The First Deposit was heretofore deemed non-refundable to the Purchaser and fully earned and released to the Vendor on July 12, 2024. In this regard, (i) the Purchaser hereby acknowledges and agrees that the First Deposit (together with any interest thereon) was forfeited to the Vendor and (ii) if the Transaction is completed on the Closing Date in accordance with the provisions of the Purchase Agreement, as amended by this Agreement, the First Deposit shall be credited against the balance of the Purchase Price payable by the Purchaser on the Closing Date.

- (g) Subsection 2(e) of the First Reinstatement and Amending Agreement is hereby deleted in its entirety and replaced with the following:

The Second Deposit is hereby deemed to be non-refundable to the Purchaser and fully earned and released to the Vendor on the Effective Date. In this regard, (i) the Purchaser hereby irrevocably authorizes and directs the Vendor to release the Second Deposit (together with any interest thereon) from trust as forfeited to the Vendor and (ii) if the Transaction is completed on the Closing Date in accordance with the provisions of the Purchase Agreement, as amended by this Agreement, the Second Deposit shall be credited against the balance of the Purchase Price payable by the Purchaser on the Closing Date.

- (h) Subsections 2(f) and (g) of the First Reinstatement and Amending Agreement are hereby deleted in their entirety and replaced with the following:

The Purchaser shall pay, as a further deposit towards the balance of the Purchase Price due on Closing, by wire transfer, the amount of [REDACTED] (the **"Third Deposit"**) to the Purchaser's Solicitors, in trust, within one (1) Business Day of the date that this Agreement is executed by each of the Parties. Provided that in the event that the Purchase Agreement is terminated due to the Purchaser's default thereunder, the Third Deposit (together with any interest thereon) shall, without the requirement of any further action by the Parties, be immediately thereafter released from trust by wire transfer from the Purchaser's Solicitors to the Vendor and forfeited to the Vendor as liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under the Purchase Agreement and at law.

(i) Schedule D of the Purchase Agreement is hereby deleted in its entirety and replaced with the Schedule D attached hereto.

(j) Subsection 16(a)(iv) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

it is or will be on the Assumption Date (as hereinafter defined) a builder and vendor licensed under the Home Construction Regulatory Authority;

(k) Section 47 of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, the Purchaser shall have the right, until seven (7) Business Days before the Closing Date, upon written notice to the Vendor's Solicitors, to assign, in whole or part, its rights to acquire the Purchased Assets herein to any company or companies in which the Purchaser or Anthony De Francesco, directly or indirectly, holds a material interest (the "**Assignee**"), provided that such assignment shall not release the Purchaser from its obligations under this Agreement. The Purchaser hereby covenants and agrees that any such assignment by the Purchaser pursuant to this paragraph shall be conditional on and subject to the (i) Court granting an amendment to the Approval and Vesting Order for the purpose of noting the Assignee as the Purchaser and (ii) Purchaser reimbursing the Vendor, as a credit in favour of the Vendor on the Statement of Adjustments, for all costs, expenses, fees and disbursements incurred by the Vendor in connection with obtaining such amendment to the Approval and Vesting Order such that the Vendor shall be fully indemnified in respect thereof.

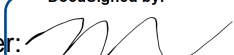
(l) Notwithstanding any provision in the Purchase Agreement to the contrary, the Parties hereby covenant and agree that the Purchaser shall assume the Assumed Agreements of Purchase and Sale ninety (90) days following the Closing Date (the "**Assumption Date**"), with a right in favour of the Purchaser to extend the Assumption Date by a further ninety (90) days upon prior written notice to the Vendor and the Vendor's Solicitors, or such other date as the Parties may agree in writing. The Purchaser's assumption of the Assumed Agreements of Purchase and Sale shall be subject to and conditional on the Purchaser being licensed as a vendor and builder with the Home Construction Regulatory Authority. The Parties hereby agree to act reasonably and in good faith in agreeing to further extend the Assumption Date if required while the Purchaser's application for a vendor and builder licence remains pending for approval by the Home Construction Regulatory Authority. The Purchase Agreement shall be deemed to be amended, *mutatis mutandis*, to incorporate the provisions hereof, which shall survive Closing.

4. The Purchaser and the Vendor hereby agree and confirm that the Due Diligence Inspection Condition contemplated by Schedule E of the Purchase Agreement has been waived, or is deemed to have been waived, by the Purchaser in the manner and within the timeline prescribed by the Purchase Agreement.
5. The Purchaser acknowledges and agrees that the Vendor may rely on the terms of this Agreement as a full estoppel to any proceeding, suit, claim, motion or other action brought by the Purchaser to seek relief from forfeiture of the Deposit, or any portion thereof, to the Vendor.
6. All other terms and conditions of the Purchase Agreement shall remain the same and time shall continue to be of the essence.
7. This Agreement shall be binding upon the Parties and their respective successors and assigns.
8. This Agreement shall be governed by and construed in accordance with the Law of the Province of Ontario and the Law of Canada applicable in that Province.
9. This Agreement may be executed in counterparts and transmitted by electronic transmission, each of which, when so executed and transmitted, shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.
10. In the event of any discrepancy between the provisions of this Agreement and the provisions of the Purchase Agreement, the provisions of this Agreement shall prevail and the Purchase Agreement shall be deemed to be amended to incorporate same.

[Signature Page Follows]

**IN WITNESS WHEREOF** the Parties have duly executed this Agreement as of the date first above written.

**KSV RESTRUCTURING INC., in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without personal or corporate liability**

DocuSigned by:  
Per:   
Name: Noah Goldstein  
Title: Managing Director

I have authority to bind the Receiver.

**1000835091 ONTARIO INC.**

Per: \_\_\_\_\_  
Name: Anthony De Francesco  
Title: Authorized Signing Officer

I have authority to bind the Corporation.

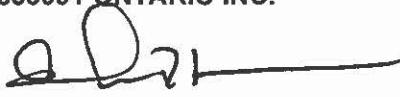
**IN WITNESS WHEREOF** the Parties have duly executed this Agreement as of the date first above written.

**KSV RESTRUCTURING INC., in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without personal or corporate liability**

Per: \_\_\_\_\_  
Name: Noah Goldstein  
Title: Managing Director

I have authority to bind the Receiver.

**1000835091 ONTARIO INC.**

Per:  \_\_\_\_\_  
Name: Anthony De Francesco  
Title: Authorized Signing Officer

I have authority to bind the Corporation.

**SCHEDULE "D"  
ASSUMED CONTRACTS**

None.



# APPENDIX G

### THIRD REINSTATEMENT AND AMENDING AGREEMENT

11/18/2024

THIS AGREEMENT is made as of the \_\_\_\_ day of November, 2024 (the "Effective Date").

#### BETWEEN:

**KSV RESTRUCTURING INC.,**  
in its capacity as Court-appointed receiver of La Pue International Inc.  
and not in its personal or corporate capacity and without personal or corporate liability  
(the "Vendor")

- and -

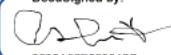
**1000835091 ONTARIO INC.**  
(the "Purchaser")

#### WHEREAS:

- A. The Vendor and Lakeshore Luxe Design & Build Group Inc. (the "Original Purchaser") entered into an asset purchase agreement dated as of the 4<sup>th</sup> day of April, 2024 (the "Original Purchase Agreement"), pursuant to which the Vendor agreed to sell and the Original Purchaser agreed to purchase, *inter alia*, those lands and premises municipally known as 5528 Ferry Street, Niagara Falls, Ontario, as legally described in PIN 64349-0258 (LT);
- B. The Original Purchaser assigned all of its right, title and interest in the Original Purchase Agreement to the Purchaser pursuant to an Assignment of Agreement of Purchase and Sale dated as of June 11, 2024 as subsequently replaced by an Assignment of Asset Purchase Agreement dated as of July 12, 2024 (the "Assignment Agreement"), provided that the Assignment Agreement shall not release the Original Purchaser from its obligations under the Original Purchase Agreement;
- C. The Vendor has obtained the Approval and Vesting Order of The Honourable Justice Penny of the Ontario Superior Court of Justice (Commercial List) (Court File No. CV-23-00700695-00CL) dated June 21, 2024 approving the transaction contemplated in the Purchase Agreement (as hereinafter defined);
- D. The Vendor terminated the Original Purchase Agreement, as assigned pursuant to the Assignment Agreement, (which, together with any amendments thereof, shall hereinafter be collectively referred to as the "Purchase Agreement") pursuant to a termination letter to the Purchaser dated July 4, 2024 due to the Purchaser's failure to provide the balance of the closing funds and the executed closing documentation on the Closing Date;
- E. The Vendor and the Purchaser entered into a Reinstatement and Amending Agreement dated as of July 12, 2024 (the "First Reinstatement and Amending Agreement") to reinstate, confirm, ratify and amend the Purchase Agreement in accordance with and subject to the terms and conditions thereof;
- F. The Vendor terminated the reinstated Purchase Agreement pursuant to a letter dated July 29, 2024 due to the Purchaser's failure to pay the Third Deposit (as defined in the First Reinstatement and Amending Agreement);
- G. The Vendor and the Purchaser entered into a Reinstatement and Amending Agreement dated as of October 8, 2024 (the "Second Reinstatement and Amending Agreement") to reinstate, confirm, ratify and amend the Purchase Agreement in accordance with and subject to the terms and conditions thereof;
- H. The Vendor terminated the reinstated Purchase Agreement pursuant to a letter dated October 24, 2024 (the "Termination Letter") due to the Purchaser's failure to pay the Third Deposit (as defined in the Second Reinstatement and Amending Agreement);
- I. Notwithstanding the issuance of the Termination Letter, the Vendor and the Purchaser have agreed to further reinstate, confirm, ratify and amend the Purchase Agreement in accordance with and subject to the terms and conditions hereof; and
- J. Unless otherwise specifically defined in this Agreement or the context otherwise requires, any capitalized terms used in this Agreement shall have the meanings assigned thereto in the Purchase Agreement.

**NOW THEREFORE** in consideration of the sum of the Two (\$2.00) Dollars now paid to each Party, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

1. The above recitals are true and correct in substance and in fact.

DocuSigned by:  
  
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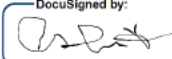
2. The Parties hereby further reinstate, confirm, ratify and agree to be bound by the terms of the Purchase Agreement, as amended by the First Reinstatement and Amending Agreement and the Second Reinstatement and Amending Agreement, in accordance with and subject to the terms and conditions hereof.
3. The Parties hereby acknowledge and agree that:
  - (a) Subsection 1(tt) of the Purchase Agreement is hereby deleted in its entirety and replaced with the following:

"Purchaser's Solicitors" means the firm of Tyr LLP, 488 Wellington Street West, Suite 300-302, Toronto, Ontario (Attention: Jason Wadden, E-mail: jwadden@tyrllp.com);
  - (b) Subsection 3(d) of the Second Reinstatement and Amending Agreement is hereby deleted in its entirety and replaced with the following:

The Closing Date is hereby designated as the date that is fourteen (14) Business Days following the date on which the (i) Reinstatement Order is granted or (ii) Vendor waives the Vendor's Condition, as applicable, or such other date as the Parties agree in writing.
  - (c) Subsection 3(h) of the Second Reinstatement and Amending Agreement is hereby deleted in its entirety and replaced with the following:

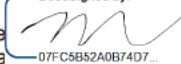
The Purchaser shall pay, as a further deposit towards the balance of the Purchase Price due on Closing, by wire transfer, the amount of [REDACTED] (the "Third Deposit") to the Vendor, in trust, within one (1) Business Day of the Effective Date. Provided that in the event that the Purchase Agreement is terminated due to the Purchaser's default thereunder, the Third Deposit (together with any interest thereon) shall, without the requirement of any further action by the Parties, be immediately thereafter released from trust and forfeited to the Vendor as liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under the Purchase Agreement and at law. Notwithstanding the foregoing, in the event that MarshallZehr Group Inc. ("MZ") fails to complete the financing transaction contemplated in a letter of intent to be entered into between MZ and the Purchaser for any reason other than due to the Purchaser's default in respect of such financing transaction and the Purchase Agreement is terminated as a result, the (i) Third Deposit shall be returned to the Purchaser without deduction and/or interest at the request of the Purchaser and (ii) that in the event the Third Deposit is so returned, the Purchaser acknowledges and agrees that it shall have no further rights or remedies against the Vendor arising out of the termination of the Purchase Agreement including without limitation in respect of the forfeiture and release of the First Deposit and the Second Deposit to the Vendor.
4. The Purchaser acknowledges and agrees that the Vendor may rely on the terms of this Agreement as a full estoppel to any proceeding, suit, claim, motion or other action brought by the Purchaser to seek relief from forfeiture of the Deposit, or any portion thereof, to the Vendor.
5. All other terms and conditions of the Purchase Agreement shall remain the same and time shall continue to be of the essence.
6. This Agreement shall be binding upon the Parties and their respective successors and assigns.
7. This Agreement shall be governed by and construed in accordance with the Law of the Province of Ontario and the Law of Canada applicable in that Province.
8. This Agreement may be executed in counterparts and transmitted by electronic transmission, each of which, when so executed and transmitted, shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.
9. In the event of any discrepancy between the provisions of this Agreement and the provisions of the Purchase Agreement, the provisions of this Agreement shall prevail and the Purchase Agreement shall be deemed to be amended to incorporate same.

[Signature Page Follows]

DocuSigned by:  
  
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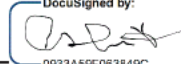
IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the date first above written.

**KSV RESTRUCTURING INC., in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without personal or corporate liability**

DocuSigned by:  
Per:  \_\_\_\_\_  
Name: 07FC5B52A0B74D7...  
Title: Managing Director

I have authority to bind the Receiver.

**1000835091 ONTARIO INC.**

DocuSigned by:  
Per:  \_\_\_\_\_  
Name: 0933A56F063849C  
Title: Authorized Signing Officer

I have authority to bind the Corporation.

# APPENDIX H

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT dated the 20 day of September, 2024.

### BETWEEN:

**KSV RESTRUCTURING INC.**, in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without personal or corporate liability  
(the “Vendor”)

- and -

• **PAWEL FUGIEL IN TRUST FOR A CORPORATION TO BE INCORPORATED AND WITHOUT PERSONAL LIABILITY**  
(the “Purchaser”)

### RECITALS:

- A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated October 19, 2023 (the “**Receivership Order**”), the Vendor was appointed as receiver over all property, assets and undertakings of La Pue International Inc. (“**La Pue**”), including, without limitation, the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario and bearing the legal description described in Schedule “B” hereto;
- B. Pursuant to an Order of the Court dated December 20, 2023, the Receiver was authorized and directed to conduct a process for the sale of the Property; and
- C. Subject to the Court issuing the Approval and Vesting Order, the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, the right, title, and interest of the Debtor in and to the Purchased Assets on the terms and conditions set out herein.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

### 1. DEFINITIONS.

In this Agreement, including the Recitals, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

- (a) “**Agreement**” means this asset purchase agreement, including the attached Schedules to this Agreement, as it or they may be amended or supplemented from time to time;
- (b) “**Applicable Laws**” means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Government Authority;
- (c) “**Application**” has the meaning ascribed to it in Subsection 14(b)(i);
- (d) “**Approval and Vesting Order**” means an order made by the Court approving the Transaction and vesting in the Purchaser all the right, title and interest of the Debtor in the Purchased Assets free and clear of all Encumbrances (except for Permitted

Encumbrances), in form and substance satisfactory to the Vendor and the Purchaser, acting reasonably;

- (e) **"Assignment Order"** has the meaning ascribed to it in Section 11;
- (f) **"Assumed Agreements of Purchase and Sale"** means the Existing Agreements of Purchase and Sale to be assumed by the Purchaser on Closing and listed on **Schedule "A"** attached hereto;
- (g) **"Assumed Contracts"** has the meaning ascribed to it in Section 10;
- (h) **"Assumed Liabilities"** has the meaning ascribed to it in Subsection 9(a);
- (i) **"Business Day"** means a day on which banks are open for business in the City of Toronto, but does not include a Saturday, Sunday, or statutory holiday recognized in the Province of Ontario;
- (j) **"Cash Collateral"** means all cash security deposited by or on behalf of the Debtor with the City of Niagara Falls and/or Tarion or with a financial institution, as required by the City of Niagara Falls and/or Tarion in connection with the development and construction of the Project;
- (k) **"Closing"** has the meaning ascribed to it in Section 13;
- (l) **"Closing Date"** has the meaning ascribed to it in Section 13;
- (m) **"Contracts"** means all contracts, agreements, leases and arrangements to which the Debtor is bound or affected in connection with the Purchased Assets and/or the Project;
- (n) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (o) **"Cure Costs"** means all monetary Liabilities of the Debtor under the Purchased Assets up to and including the date of assignment that must be paid or otherwise satisfied to cure all monetary and other defaults under the Purchased Assets, **save and except for any and all realty taxes (including any and all utility charges that may be outstanding) or other charges due and owing to any municipality, city, province or federal governmental authority, including but not limited to any sidewalk, road or other improvements so required as well as any and all real estate commissions, consultants, engineers, architects due and owing from the development of the Purchased Assets including the Existing Agreements of Purchase and Sale (as defined below);**
- (p) **"Debtor"** means La Pue International Inc.;
- (q) **"Deposit"** has the meaning ascribed to it in Subsection 5(a);
- (r) **"DRA"** has the meaning ascribed to it in Subsection 14(a)(i);
- (s) **"Encumbrances"** means any and all security interests, mortgages, charges, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, leases, title retention agreements, reservations of ownership, demands, executions, levies, charges, Work Orders, rights of way, options or other rights to acquire any interest in any assets, or other financial or monetary claims, whether or not same have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and all contracts to create any of the foregoing, or encumbrances of any kind or character whatsoever, other than Permitted Encumbrances;

- (t) **“Environmental Laws”** means any and all applicable international, federal, provincial, municipal or local laws, by-laws, statutes, regulations, treaties, orders, judgments, decrees, ordinances, official directives and all authorizations relating to the environment, occupational health and safety, health protection or any Hazardous Materials;
- (u) **“ETA”** means the *Excise Tax Act* (Canada);
- (v) **“Excluded Assets”** has the meaning ascribed to it in Section 12;
- (w) **“Existing Agreements of Purchase and Sale”** means the existing agreements of purchase and sale entered into by the Debtor with respect to the purchase and sale of condominium units within the Project;
- (x) **“Government Authority”** means any Person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal governments having or claiming to have jurisdiction over part or all of the Purchased Assets, the Transaction and/or one or both of the Parties;
- (y) **“HST”** has the meaning ascribed to it in Section 28(a);
- (z) **“Hazardous Materials”** means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority and any **“Contaminants”**, **“Dangerous Substances”**, **“Hazardous Materials”**, **“Hazardous Substances”**, **“Hazardous Wastes”**, **“Industrial Wastes”**, **“Liquid Wastes”**, **“Pollutants”** and **“Toxic Substances”**, all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental, health and/or safety matters and, not to limit the generality of the foregoing, includes asbestos, urea formaldehyde foam insulation and mono or poly-chlorinated biphenyl wastes;
- (aa) **“Indemnitees”** has the meaning ascribed to it in Subsection 20(a);
- (bb) **“Lands”** means the lands and premises legally described in **Schedule “B”** attached hereto;
- (cc) **“Liabilities”** means any and all claims, actions, causes of action, suits, proceedings, applications, complaints, costs, expenses, charges, debts, liabilities, losses, damages, orders, judgments, demands, fines, penalties, and obligations of any nature of kind whatsoever, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise;
- (dd) **“Party”** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **“Parties”** means collectively the Vendor and the Purchaser;
- (ee) **“Permits”** means all authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required by any Government Authority in respect of the Structure, the Lands or the Project;
- (ff) **“Permitted Encumbrances”** means those Encumbrances listed in **Schedule “C”** attached hereto and without duplication those encumbrances, easements and restrictive covenants listed or to be listed on Schedule “D” to the Approval and Vesting Order;



- (gg) **“Person”** means an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (hh) **“Prepaid Expenses and Deposits”** means all prepayments, prepaid charges, deposits, security deposits, sums and fees in any way related to the Purchased Assets, but excluding the Cash Collateral;
- (ii) **“Project”** means the two (2) residential buildings and one (1) mixed-use building to have been developed and constructed by the Debtor on the Lands;
- (jj) **“Project Documents”** means all plans, designations, drawings, designs, agreements, and specifications in connection with the Project that are in the possession or control of the Vendor (it being acknowledged that the Vendor is under no obligation to incur additional expense to obtain such plans, designs and specifications);
- (kk) **“Purchase Price”** has the meaning ascribed thereto in Section 4;
- (ll) **“Purchased Assets”** means all of the Debtor’s right, title and interest in the following assets:
  - (i) the Assumed Agreements of Purchase and Sale, if any;
  - (ii) the Assumed Contracts;
  - (iii) the Cash Collateral;
  - (iv) the Lands;
  - (v) the Permits;
  - (vi) the Prepaid Expenses and Deposits;
  - (vii) the Project Documents;
  - (viii) all Rights under or pursuant to all warranties, representations and guarantees, express, implied, or otherwise of or made by suppliers to the Debtor in connection with the Purchased Assets; and
  - (ix) the Structure,and in each case, other than the Excluded Assets;
- (mm) **“Purchaser”** has the meaning ascribed to it on page 1 above;
- (nn) **“Purchaser’s Solicitors”** means the firm of **Manis Law (Howard Manis – hmanis@manislaw.ca)**;
- (oo) **“Receiver”** means KSV Restructuring Inc. in its capacity as receiver of the Debtor appointed pursuant to the Receivership Order;
- (pp) **“Receiver’s Certificate”** means the certificate attached as a schedule to the Approval and Vesting Order confirming *inter alia* that the Receiver has received the Purchase Price and all conditions to Closing, if any, have been satisfied or waived by the Parties;
- (qq) **“Receivership Order”** has the meaning ascribed to it in the Recitals;

- (rr) **"Rights"** has the meaning ascribed to it in Section 11;
- (ss) **"Statement of Adjustments"** has the meaning ascribed to it in Subsection 24(a)(iii);
- (tt) **"Structure"** means the structure(s) situated on the Lands, including all improvements thereto and all fixtures forming a part thereof; **NTD: KSV are there any structures on this property?**
- (uu) **"TERS"** has the meaning ascribed to it in Subsection 14(d)(iii);
- (vv) **"Transaction"** means the transaction contemplated by this Agreement;
- (ww) **"Vendor"** has the meaning ascribed to it in the Recitals;
- (xx) **"Vendor's Solicitors"** means the firm of Chaitons LLP, 5000 Yonge Street, 10<sup>th</sup> Floor, Toronto, Ontario (Attention: Mark Willis-O'Connor), E-mail: [markw@chaitons.com](mailto:markw@chaitons.com)); and
- (yy) **"Work Orders"** means, collectively, all work orders issued by a Government Authority, notices of violation issued by a Government Authority, and other matters of non-compliance with zoning and other requirements of a Government Authority relating to the Lands, the Structure and/or the Project.

## 2. SCHEDULES.

The following schedules are appended to this Agreement:

- Schedule "A" Assumed Agreements of Purchase and Sale
- Schedule "B" The Lands
- Schedule "C" The Permitted Encumbrances
- Schedule "D" Assumed Contracts

## 3. AGREEMENT TO PURCHASE AND SELL.

On the Closing Date, the Vendor shall sell the Purchased Assets and assign the Assumed Liabilities and the Purchaser shall purchase the Purchased Assets and assume the Assumed Liabilities, upon and subject to the terms of this Agreement.

## 4. PURCHASE PRICE.

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets shall be the sum of [REDACTED] (the "Purchase Price").

## 5. SATISFACTION OF PURCHASE PRICE.

The Purchase Price shall be paid and satisfied as follows:

- (a) a deposit in the amount of [REDACTED], which is equal to [REDACTED] of the Purchase Price (the "Deposit"), to be paid by the Purchaser to the Vendor in trust contemporaneously with the delivery by the Purchaser of a copy of this Agreement executed by the Purchaser;
- (b) Deposit schedule as follows:
  - (i) [REDACTED] — 7 Business days upon acceptance.

- (ii) [REDACTED] — 20 Business days after acceptance.
- (iii) [REDACTED] — 35 business days after acceptance.
- (c) the balance of the Purchase Price, subject to the adjustments contemplated in this Agreement, shall be paid by the Purchaser to the Vendor on the Closing Date; and
- (d) by the assumption of the Assumed Liabilities effective as of the Closing Date.

The Deposit and the balance due on Closing shall be paid by way of certified cheque, bank draft or wire drawn on or issued by a Canadian chartered bank. The Vendor and the Purchaser acknowledge and agree that they shall each make their own allocations of the Purchase Price between the Purchased Assets for the purposes of the *Income Tax Act* (Canada) and any filings in accordance with the provisions thereof.

#### 6. DEPOSIT.

The Deposit shall be held in trust by the Vendor in a non-interest bearing trust account and shall be:

- (a) credited on account of the Purchase Price on the Closing Date if the Transaction is completed;
- (b) refunded to the Purchaser, without deduction, if the Transaction is not completed, provided that the Purchaser is not in default under this Agreement; or
- (c) retained by the Vendor as a genuine pre-estimate of liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under this Agreement and at law.

#### 7. APPROVAL AND VESTING ORDER.

Within **seven (7)** Business Days following the execution of this Agreement by the Parties, the Vendor will seek an appointment with the Court for a motion to be heard within **thirty (30)** days, or otherwise as soon as reasonably possible, to seek the Approval and Vesting Order. The Purchaser shall, at its sole cost and expense, promptly provide to the Vendor all such information and assistance as the Vendor may reasonably require to obtain the Approval and Vesting Order. In the event that the Court does not grant the Approval and Vesting Order, the (i) Vendor covenants and agrees to return the Deposit to the Purchaser without deduction and/or interest in accordance with the provisions of this Agreement and (ii) Purchaser acknowledges and agrees that it shall have no further rights or remedies against the Vendor arising out of the termination of this Agreement.

#### 8. CLOSING ADJUSTMENTS.

Adjustments shall be made, as of 12:01 a.m. on the Closing Date, for all operating costs, realty taxes, local improvement rates, municipal/provincial levies and charges, water and assessment rates, security deposits and interest thereon (if any), utilities, and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a receivership sale. The day of Closing shall be for the account of the Purchaser. Other than as provided for in this Section 8, there shall be no adjustments to the Purchase Price.

#### 9. ASSUMED LIABILITIES.

- (a) On Closing, the Purchaser shall assume and be liable for the following Liabilities from and after Closing (collectively, the "**Assumed Liabilities**"):
  - (i) the Permitted Encumbrances;

- (ii) all Liabilities under the Assumed Contracts;
  - (iii) all Liabilities under the Assumed Agreements of Purchase and Sale, including without limitation, any Liabilities arising out of or in connection with the *Ontario New Home Warranties Plan Act*; and
  - (iv) all Liabilities arising from the Purchaser's ownership of the Purchased Assets after Closing.
- (b) The Purchaser is not assuming, and shall not be deemed to have assumed, any Liabilities of the Debtor other than the Assumed Liabilities, including without limitation any Liabilities arising or accruing from the ownership or use of the Purchased Assets prior to the Closing.

10. **ASSUMED CONTRACTS.**

The Purchaser shall assume on Closing the Contracts listed on **Schedule "D"** attached hereto (the "**Assumed Contracts**"). The Purchaser shall pay the applicable Cure Costs related to the Assumed Contracts on Closing and shall provide evidence of such payment to the Vendor.

11. **ASSIGNMENT OF PURCHASED ASSETS.**

To the extent that any of the Purchased Assets to be transferred to the Purchaser on the Closing, or any claim, right or benefit arising under or resulting from such Purchased Assets (collectively, the "**Rights**") is not capable of being transferred without the approval, consent or waiver of any Person, this Agreement shall not constitute an agreement to transfer such Rights unless and until such approval, consent, waiver or order of the Court has been obtained (the "**Assignment Order**") and the Purchaser has paid all applicable Cure Costs related to such Purchased Assets.

12. **EXCLUDED ASSETS.**

The Purchaser may, at its option and upon written notice to the Vendor not less than two (2) Business Days prior to the Closing Date, exclude any of the Purchased Assets from the Transaction (the "**Excluded Assets**"), whereupon such assets shall be deemed to form part of the Excluded Assets. In the event that the Purchaser exercises such option, there shall be no reduction and/or abatement to the Purchase Price as a result of such exclusion(s).

13. **CLOSING DATE.**

The Transaction shall be completed **on or before November 22, 2024**, or such other date as the Parties may agree in writing (the "**Closing Date**" or "**Closing**"). If, prior to the Closing, the Approval and Vesting Order (or any orders dismissing appeals thereof) shall have been appealed or a proceeding shall have been commenced to restrain or prevent the completion of the Transaction, then notwithstanding the foregoing and/or anything contained herein to the contrary, the Vendor shall have the option, exercisable by it, as it may determine in its sole and unfettered discretion, to extend the Closing Date by written notice thereof to the Purchaser to the date this is no later than **seven (7) Business Days** immediately following the date that any such appeals and/or proceedings are dismissed.

14. **ELECTRONIC REGISTRATION.**

- (a) The Purchaser authorizes the Purchaser's Solicitor to enter into a document registration agreement with the Vendor's Solicitors in the form as agreed by the Parties (the "**DRA**"), establishing the procedures and timing for completing this transaction.
- (b) The delivery and exchange of the closing documents:

- (i) shall not occur contemporaneously with the registration of the application for vesting order (the “**Application**”) and other registerable documentation; and
  - (ii) shall be governed by the DRA, pursuant to which the Vendor’s Solicitors and Purchaser’s Solicitors shall hold all closing documents in escrow, and will not be entitled to release them except in strict accordance with the provisions of the DRA.
- (c) The Purchaser expressly acknowledges and agrees that the Vendor will not release the Receiver’s Certificate confirming the effectiveness of the Approval and Vesting Order until the balance of funds due on Closing are remitted to the Vendor or as it may direct.
- (d) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties that an effective tender shall be deemed to have been made by the Vendor upon the Purchaser when the Vendor’s Solicitors have:
- (i) delivered all documents required to be delivered by the Vendor to the Purchaser pursuant to Section 24;
  - (ii) advised the Purchaser’s Solicitors in writing that the Vendor is ready, willing and able to complete the Transaction in accordance with the terms and provisions of this Agreement; and
  - (iii) completed all steps required by the electronic registration system (“**TERS**”) to complete the Transaction that can be performed or undertaken by the Vendor’s Solicitors without the cooperation or participation of the Purchaser’s Solicitors, and specifically when the “**completeness signatory**” for the Application has been electronically “**signed**” by the Vendor’s Solicitors,

without the necessity of personally attending upon the Purchaser or the Purchaser’s Solicitors with the closing documents, and without any requirement to have an independent witness evidencing the foregoing.

- (e) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties that an effective tender shall be deemed to have been made by the Purchaser upon the Vendor, when the Purchaser’s Solicitors have:
- (i) delivered the balance due at Closing and all the documents required to be delivered by the Purchaser to the Vendor pursuant to Section 25;
  - (ii) advised the Vendor’s Solicitors in writing that the Purchaser is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
  - (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Purchaser’s Solicitors without the cooperation or participation of the Vendor’s Solicitors, and specifically when the “**completeness signatory**” for the Application has been electronically “**signed**” by the Purchaser’s Solicitors,

without the necessity of personally attending upon the Vendor or the Vendor’s Solicitors with the closing documents, and without any requirement to have an independent witness evidencing the foregoing.

- (f) If through no fault of the Purchaser’s Solicitors or the Vendor’s Solicitors TERS is unavailable on the Closing Date, such that the Purchaser’s Solicitors are unable to register the Application for Vesting Order, then the Transaction shall be completed in

escrow in accordance with the terms of the DRA which shall apply until such time as TERS becomes available. Upon TERS becoming available, the Vendor's Solicitors shall advise the Purchaser's Solicitors forthwith and the Parties shall arrange to complete the registration of the Approval and Vesting Order as expeditiously as possible, whereupon the escrow shall be released.

In the event of any conflict or inconsistency between the terms of this Section 14 and the terms of the DRA, the terms of this Section 14 shall prevail.

**15. PRE-CLOSING RISK.**

The Purchased Assets are and shall remain at the Vendor's risk until Closing and the Vendor shall hold all insurance policies and the proceeds thereunder, in trust, for the Parties as their respective interests may appear pending Closing.

**16. PURCHASER'S REPRESENTATIONS AND WARRANTIES.**

- (a) The Purchaser represents and warrants to the Vendor that, as at the date hereof:
  - (i) it is a corporation duly incorporated, organized and validly subsisting under the laws of the Province of Ontario and has all requisite corporate power, authority and capacity to execute and deliver and to perform each of its obligations pursuant to this Agreement;
  - (ii) this Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms;
  - (iii) it is or will on Closing be a registrant under Part IX of the ETA;
  - (iv) it is or will on Closing be a builder and vendor licensed under the Home Construction Regulatory Authority;
  - (v) it has made adequate arrangements to have sufficient funds available to satisfy its obligation to pay the Purchase Price to the Vendor on Closing;
  - (vi) it is not a non-resident within the meaning of the *Income Tax Act* (Canada); and
  - (vii) the representations and warranties of the Purchaser contained in this Section 16 or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive Closing.
- (b) The Purchaser shall promptly deliver to the Vendor written notice specifying the occurrence or likely occurrence of any event which may result in any of the Purchaser's representations and warranties contained in this Agreement not continuing to be true as at Closing.

**17. VENDOR'S REPRESENTATIONS AND WARRANTIES.**

The Vendor represents and warrants to the Purchaser that, as at the date hereof:

- (a) it is a registrant under Part IX of the ETA;
- (b) it is not a non-resident within the meaning of the *Income Tax Act* (Canada); and
- (c) the Receivership Order is in full force and effect.

18. **“AS IS, WHERE IS”.**

The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an “as is, where is” and “without recourse” basis. Other than as specifically indicated herein, the Vendor nor any of its directors, officers, employees, professional consultants or advisors, agents or representatives make or grant any representations, warranties, terms, conditions, understandings or collateral agreements, express or implied, statutory or otherwise, including, without limitation, under the *Sale of Goods Act* (Ontario), all of which are expressly waived by the Purchaser, with respect to title, encumbrances, outstanding liens, assignability, merchantability, condition, description, present or future uses, fitness for purpose or use, quality, quantity, cost, value or the validity, invalidity, or enforceability of any patent, copyright or trademark right, or as to any other matter whatsoever regarding the Purchased Assets or the Debtor. Without limiting the generality of the foregoing, the Purchaser acknowledges having conducted its own due diligence and investigations in respect of the environmental state of the Purchased Assets, the existence, nature, kind, state or identity of any Hazardous Materials on, under, or about the Purchased Assets, the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under any Environmental Law, and the existence, nature, kind, state or identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Materials whether on, under or about the Purchased Assets or elsewhere. The Purchaser has relied entirely on its own judgment, inspection and investigation of the Purchased Assets, and further acknowledges that: at its own expense, it has inspected the Purchased Assets; and in entering into this Agreement and proceeding with and completing its purchase of the Purchased Assets pursuant hereto, it is satisfied with and has relied entirely on its own inspection, investigations and judgment.

19. **ENCROACHMENTS.**

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Purchased Assets, or encroachments onto adjoining lands, or to remove same, or for any matters relating to any Applicable Laws, including without limitation, zoning regulations or by-laws in existence now or in the future affecting any of the Purchased Assets.

20. **INDEMNIFICATION AND RELEASE BY PURCHASER.**

- (a) The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees, shareholders, agents and representatives (collectively, the “**Indemnitees**”) from and against any and all Liabilities incurred by or asserted against them arising out of or in connection with the Purchased Assets after the Closing Date, including without limitation any Liabilities relating to any Environmental Laws and/or Liabilities imposed by Tarion in connection with the Assumed Agreements of Purchase and Sale, if any.
- (b) The Purchaser agrees to release and discharge the Vendor together with its directors, officers, employees, agents, and representatives from every Liability of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Materials relating to the Purchased Assets. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up or remove or pay for the cleanup or removal of any Hazardous Materials, remediate any condition or matter in, on, under or in the vicinity of the Purchased Assets, or seek an abatement in the Purchase Price or damages in connection with any Hazardous Materials.
- (c) The foregoing provisions shall not merge on Closing and shall remain in effect thereafter without limitation.

21. **NON-REGISTRATION.**

The Purchaser hereby covenants and agrees that it shall not register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document, instrument or court order or judgement providing evidence of this Agreement against title to the Lands. Should the Purchaser be in

default of its obligations under this Section 21, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caution, certificate of pending litigation or other document providing evidence of this Agreement or any assignment of this Agreement from the title to the Purchased Assets. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Purchased Assets. The Purchaser acknowledges and agrees that the Vendor may rely on the terms of this Section 21 as a full estoppel to any proceeding, suit, claim, motion or other action brought by the Purchaser in order to obtain and attempt to register against the title to the Lands any of the items set out in this Section 21.

**22. VENDOR'S CLOSING CONDITIONS.**

- (a) The Vendor shall not be obliged to complete the transaction contemplated hereunder unless, on or before the Closing Date, the following conditions shall have been satisfied, it being understood that the conditions are included for the exclusive benefit of the Vendor and may be waived in writing in whole or in part by the Vendor at any time:
  - (i) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date with the same force and effect as if such representations and warranties were made at such time, and a certificate of the Purchaser, dated as of the Closing Date, to that effect shall have been delivered to the Vendor, such certificate to be in a form and substance satisfactory to the Vendor, acting reasonably;
  - (ii) all of the terms, covenants and agreements set forth in this Agreement to be complied with or performed by the Purchaser on or before the Closing Date shall have been complied with or performed by the Purchaser;
  - (iii) no court order restraining or prohibiting the Closing shall have been made;
  - (iv) the Purchased Assets shall not have been removed from the Vendor's control;
  - (v) the Approval and Vesting Order shall have been issued and no appeals thereof shall be pending; and
  - (vi) the delivery of the documents referenced in Section 25 to the Vendor.

**23. PURCHASER'S CLOSING CONDITIONS.**

The Purchaser shall not be obliged to complete the transaction contemplated herein unless, on or before the Closing Date, the following conditions shall have been satisfied, it being understood that the conditions are included for the exclusive benefit of the Purchaser and may be waived in writing in whole or in part by the Purchaser at any time:

- (a) all the representations and warranties of the Vendor contained in this Agreement shall be true and correct in all material respects on the Closing Date with the same force and effect as if such representations and warranties were made at such time, and a certificate of the Vendor, dated as of the Closing Date, to that effect shall have been delivered to the Purchaser, such certificate to be in a form and substance satisfactory to the Purchaser, acting reasonably;
- (b) all of the terms, covenants and agreements set forth in this Agreement to be complied with or performed by the Vendor on or before the Closing Date shall have been complied with or performed by the Vendor;



- (c) no court order restraining or prohibiting the Closing shall have been made and no legal proceeding shall be pending which enjoins, restricts or prohibits the purchase and sale of the Purchased Assets contemplated hereby;
- (d) the Approval and Vesting Order shall have been issued and no appeals thereof shall be pending;
- (e) the delivery of the documents referenced in Section 24 to the Purchaser; and
- (f) the delivery of a Full and Final Release by the Applicant in the receivership proceeding of any and all liability of the Debtor, its principal, Pawel Fugiel, and their successors and assigns in accordance with the standard form of Releases acceptable to counsel for the Purchaser acting reasonably

24. **VENDOR'S CLOSING DELIVERIES.**

- (a) The Vendor covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date expressly provided herein:
  - (i) the Approval and Vesting Order;
  - (ii) the Receiver's Certificate;
  - (iii) a statement of adjustments prepared in accordance with Section 8 (the "**Statement of Adjustments**");
  - (iv) a general conveyance and assumption of liabilities with respect to Purchased Assets and the Assumed Liabilities;
  - (v) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Contracts;
  - (vi) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Agreements of Purchase and Sale;
  - (vii) any Assignment Order(s);
  - (viii) a certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada); and
  - (ix) a copy of the Project Documents.

25. **PURCHASER'S CLOSING DELIVERIES.**

The Purchaser covenants to execute, where applicable, and deliver the following to the Vendor at or prior to Closing:

- (a) the balance of the Purchase Price described in Subsection 5(b);
- (b) the Purchaser's certificate setting out that each of the Purchaser's representations and warranties contained in this Agreement are true as at Closing;
- (c) a general conveyance and assumption of liabilities with respect to Purchased Assets and the Assumed Liabilities;
- (d) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Contracts;

- (e) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Agreements of Purchase and Sale;
- (f) the Purchaser's certificate described in Subsection 28(b);
- (g) an undertaking with respect to refunds and/or reassessments of all realty taxes attributable to the period prior to the Closing Date;
- (h) the indemnity provided for under Subsection 28(c);
- (i) a certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada);
- (j) a direction re title to confirm the name in which title to the Purchased Assets will be taken, provided that such direction must be provided to the Vendor no less than two (2) Business Days before the hearing date for the motion to obtain the Approval and Vesting Order;
- (k) the Vendor's Solicitors will prepare the application for vesting order in Teraview in accordance with the Purchaser's direction re title; and
- (l) any other documentation relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.
- (m) **The Listing Brokerage (Colliers International) will pay the Co-operating Brokerage (Forestwood Real Estate Inc. - Sales representative Lisa Vo) the commission for the property above in the amount of 1% + hst of the purchase price, paid by the Seller to the Listing Brokerage.**

**26. DOCUMENTATION PREPARATION AND REGISTRATION.**

The Vendor shall prepare or cause to be prepared all documentation described in Sections 24 and 25 hereof and shall deliver draft documentation to the Purchaser not less than three (3) Business Days prior to Closing. Except as otherwise expressly provided in this Agreement, all such documentation shall be in form and substance satisfactory to the Vendor, acting reasonably. The Purchaser shall be responsible for and pay all registration costs incurred in connection with the Transaction. Except as otherwise expressly provided in this Agreement, each of the Vendor and the Purchaser shall be responsible for and pay all legal and other professional/consultant fees and disbursements incurred by it, directly or indirectly, in connection with this Agreement.

**27. LAND TRANSFER TAXES.**

The Purchaser shall pay all land transfer taxes (as required pursuant to the *Land Transfer Tax Act* (Ontario)) payable in connection with the transfer of the Purchased Assets pursuant to this Agreement.

**28. HARMONIZED SALES TAX.**

- (a) The Purchaser acknowledges and agrees that the transaction contemplated hereunder shall be subject to the goods and services tax and harmonized sales tax ("HST") levied pursuant to the ETA and that HST shall be in addition to and not included in the Purchase Price and shall be collected and remitted in accordance with the ETA.
- (b) If:

- (i) the Vendor is a non-resident of Canada or the Vendor would be a non-resident of Canada but for Subsection 132(2) of the ETA; and/or
- (ii) the Purchaser is a "prescribed recipient" under the ETA and/or is registered under the ETA,

then the Purchaser shall deliver, prior to Closing, its certificate in form prescribed by the ETA or, if no such form is prescribed, then in form satisfactory to the Vendor and the Vendor's Solicitors, certifying that the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate Government Authority all HST payable in respect of the transaction contemplated hereunder. If Subsection (b)(i) hereof shall be applicable, then the Purchaser's certificate shall also include certification of the Purchaser's prescription and/or registration, as the case may be, and the Purchaser's HST registration number. If the Purchaser shall fail to deliver its certificate, then the Purchaser shall tender to the Vendor, at Closing, in addition to the balance otherwise due at Closing, an amount equal to the HST that the Vendor shall be obligated to collect and remit in connection with the said transaction.

- (c) The Purchaser shall indemnify and save harmless the Vendor, its directors, officers, employees, agents and representatives from all claims, liabilities, penalties, interest, costs and legal and other expenses incurred, directly or indirectly, in connection with the assessment of HST payable in respect of the transaction contemplated hereunder.

**29. Remedies for Breach of Agreement.**

If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Receiver under this Agreement, then the Deposit, without deduction, shall be returned to the Purchaser forthwith (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Purchaser's sole right and remedy as a result of the Receiver's breach). If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Purchaser under this Agreement, then the Deposit shall be forfeited to the Receiver as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Receiver would suffer in such circumstances (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Receiver's sole right and remedy as a result of the Purchaser's breach).

**30. Termination If No Breach of Agreement.**

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then:

- (a) all obligations of each of the Receiver and the Purchaser hereunder shall end completely, except those that survive the termination of this Agreement;
- (b) the Deposit, without deduction, shall be returned to the Purchaser forthwith; and

neither Party shall have any right to specific performance, to recover damages or expenses or to any other remedy (legal or equitable) or relief.

**31. PLANNING ACT (ONTARIO).**

This Agreement shall be effective to create an interest in the Purchased Assets for the Purchaser only if Part VI of the *Planning Act* (Ontario) is complied with prior to Closing or if a Court orders the completion of the Transaction notwithstanding what would otherwise be non-compliance with Part VI of the *Planning Act* (Ontario).

**32. NOTICE.**

Any notice given hereunder shall be in writing and delivered or communicated by e-mail to:

(a) in the case of the Purchaser at:

- PAWEL FUGIEL ([pawelfugiel.fugielgroup@gmail.com](mailto:pawelfugiel.fugielgroup@gmail.com))

(b) with a copy to the Purchaser's Solicitors;

(c) and in the case of the Vendor at:

KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, Ontario M5H 1J9

Attention: Noah Goldstein  
Email: [ngoldstein@ksadvisory.com](mailto:ngoldstein@ksadvisory.com)

(d) with a copy to the Vendor's Solicitors.

Such notice shall be deemed to have been delivered upon delivery or communicated upon transmission unless such notice is delivered or transmitted outside of usual business hours, in which event the notice shall be deemed to have been delivered or transmitted on the next Business Day. A Party may change its address and/or e-mail address by providing notice in accordance with this Section 30.

**33. WAIVER OF CONDITIONS.**

Except as otherwise provided in this Agreement, all conditions contained herein have been inserted for the benefit of either the Vendor or the Purchaser, as indicated, and are conditions of the obligations of such Party to complete the transaction contemplated hereunder at Closing and are not conditions precedent of this Agreement. Any one or more of the said conditions may be waived, in writing, in whole or in part, by the benefiting Party without prejudice to the benefiting Party's right of termination in the event of the non-fulfilment of any other condition, and, if so waived, this Agreement shall be read exclusive of the said condition or conditions so waived. For greater certainty, the closing of the Transaction by a Party shall be deemed to be a waiver by such Party of compliance with any condition inserted for its benefit and not satisfied at Closing.

**34. SEVERABILITY.**

If any provision contained in this Agreement or the application thereof to any Person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of such provision to such Person or circumstances other than those to whom it is held invalid or unenforceable, shall not be affected thereby and each provision contained in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

**35. DIVISION/HEADINGS.**

The division of this Agreement into sections, subsections, paragraphs and subparagraphs and the insertion of headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement or any part hereof.

**36. ENTIRE AGREEMENT.**

This Agreement and the Schedules attached hereto constitute the entire agreement between the Vendor and the Purchaser in respect of the Purchased Assets. Each of the Parties acknowledges that, except as contained in this Agreement, there is no representation, warranty, collateral agreement or condition

(whether a direct or collateral condition or an express or implied condition) which induced it to enter into this Agreement. Each of the Parties agree that all provisions of this Agreement, and all provisions of any and all documents and security delivered in connection herewith, shall not merge and except where otherwise expressly stipulated herein, shall survive Closing.

**37. CUMULATIVE REMEDIES.**

No remedy conferred upon or reserved to one or both of the Parties hereto is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

**38. INTERPRETATION.**

This Agreement shall be read with all changes of gender and number as required by the context.

**39. STATUTE AND SECTION REFERENCES.**

Except as otherwise provided in this Agreement, references to any statute herein shall be deemed to be a reference to such statute and any and all regulations from time to time promulgated thereunder and to such statute and regulations as amended or re-enacted from time to time. Any reference herein to a specific section or sections, paragraph or subparagraphs and/or clause or clauses of any statute or regulations promulgated thereunder shall be deemed to include a reference to any corresponding provision of future law.

**40. TIME OF ESSENCE.**

Time shall in all respects be of the essence hereof provided that the time for the doing or completing of any matter referred to herein may be extended or abridged by an agreement, in writing, executed by the Vendor and the Purchaser or their respective solicitors who are hereby expressly appointed for that purpose.

**41. CURRENCY AND PAYMENT OBLIGATIONS.**

Except as otherwise provided in this Agreement, all dollar amounts referred to in this Agreement are stated in Canadian Dollars and any payment contemplated by this Agreement shall be made by certified cheque, bank draft or wire transfer.

**42. TENDER.**

Any tender of notices, documents and/or monies hereunder may be made upon the Vendor or the Purchaser or their respective solicitors. Monies may be tendered by wire transfer, a negotiable cheque certified or bank draft drawn on or issued by a Canadian chartered bank.

**43. FURTHER ASSURANCES.**

Except as otherwise expressed herein to the contrary, each Party shall, without receiving additional consideration therefor, co-operate with and take such additional actions as may be requested by the other Party, acting reasonably, in order to carry out the purpose and intent of this Agreement.

**44. CONFIDENTIALITY.**

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and, without the Vendor's prior written consent shall not be disclosed to any Person. If for any reason Closing does not occur, all such documents shall forthwith be returned intact to the Vendor and no copies or details thereof shall be

retained by the Purchaser or anyone acting on its behalf. The Purchaser and the Vendor further agree that unless and until the terms of this Agreement become public knowledge in connection with an application to the Court, the Purchaser shall keep such terms confidential and shall not disclose them to anyone except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such Person also keeps such terms confidential as aforesaid.

**45. NON-BUSINESS DAYS.**

In the event that any date specified or any date contemplated in this Agreement shall fall upon a day other than a Business Day, then such date shall be deemed to be the next following Business Day.

**46. GOVERNING LAWS.**

This Agreement has been executed in the Province of Ontario and, for all purposes, shall be construed in accordance with and governed by the laws in effect within the Province of Ontario and the laws of Canada applicable therein.

**47. ASSIGNMENT.**

No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, the Purchaser shall have the right, until five (5) Business Days before the hearing date for the motion to obtain the Approval and Vesting Order, upon written notice to the Vendor's Solicitors, to assign, in whole or part, its rights to acquire the Purchased Assets herein to any company or companies affiliated (as that term is defined in the Ontario *Business Corporations Act*) with the Purchaser, provided that such assignment shall not release the Purchaser from its obligations under this Agreement.

**48. VENDOR'S CAPACITY.**

It is acknowledged by the Purchaser that the Vendor is entering into this Agreement solely in its capacity as Court-Appointed Receiver of the Debtor and that the Vendor shall have no personal or corporate liability under or as a result of this Agreement. Any Liabilities against the Vendor shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as Receiver of the Debtor and shall not apply to its personal property and other assets held by it in any other capacity. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Purchased Assets.

49. **SUCCESSORS AND ASSIGNS.**

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

50. **COUNTERPARTS AND ELECTRONIC TRANSMISSION.**

This Agreement may be executed in any number of original counterparts, with the same effect as if each of the Parties had signed the same document, and will become effective when one or more counterparts have been signed by both of the Parties and delivered to other. All counterparts will be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, will be deemed to be dated the first date set out above and accepted on the date of the last signature, and only one of which need be produced for any purpose.


51. **IRREVOCABLE.**

This Agreement shall be irrevocable by the Purchaser. **Tuesday September 24th, 2024 at 11:59 am**

*[remainder of this page intentionally left blank]*

DATED as of the date first mentioned above.

**PAWEL FUGIEL IN TRUST FOR A CORPORATION TO BE INCORPORATED AND WITHOUT PERSONAL LIABILITY**

Per:  9/20/2024  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the Corporation.

The Vendor hereby accepts this Agreement and agrees with the Purchaser to complete the Transaction, subject to and in accordance with the provisions contained herein.

DATED at Toronto, Ontario this \_\_\_\_ day of \_\_\_\_\_, 2024.

**KSV RESTRUCTURING INC., in its capacity Court-appointed receiver of La Pue Internatic Inc., and not in its personal or corpo capacity and without personal or corpo liability**

Per: \_\_\_\_\_  
Name: Noah Goldstein  
Title: Authorized Signing Officer

I have authority to bind the Corporation.





**SCHEDULE "A"**  
**ASSUMED AGREEMENTS OF PURCHASE AND SALE**

**SCHEDULE "B"**  
**THE LANDS**

The lands and premises municipally known as 5528 Ferry Street, Niagara Falls, Ontario and legally described in PIN 64349-0258 (LT).

**SCHEDULE "C"**  
**THE PERMITTED ENCUMBRANCES [Draft Note: Confirm]**

1. any registered reservations, restrictions, rights of way, easements or covenants that run with the Lands;
2. any registered agreements with a municipality or a supplier of utility service including, without limitation, electricity, water, sewage, gas, telephone or cable television or other telecommunication service;
3. all Applicable Laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Lands;
4. any minor easements for the supply of utility service to the Lands or adjacent properties;
5. encroachments disclosed by any errors or omissions in existing surveys of the Lands or neighbouring properties and any title defect, encroachment or breach of a zoning or building by-laws or any other Applicable Law, by-laws or regulations which might be disclosed by a more up-to-date survey of the land and survey matters generally;
6. the exceptions and qualifications set forth in the *Land Titles Act* (Ontario);
7. the reservations contained in the original grant from the Crown;
8. liens for taxes if such taxes are not due and payable;
9. Instrument No. SN613492, registered on December 12, 2019, being an application to consolidate;
10. Instrument No. SN629148, registered on May 14, 2020, being a notice of agreement between the Debtor and the Corporation of the City of Niagara Falls;
11. Instrument No. SN642462, registered on September 18, 2020, being a notice of site plan agreement between the Debtor and the Corporation of the City of Niagara Falls;
12. Plan 59R-16793, registered on October 1, 2020, being a reference plan;
13. Instrument No. SN666113, registered on March 22, 2021, being By-Law 2020-04 from the Corporation of the City of Niagara Falls;
14. Instrument No. SN666891, registered on March 26, 2021, being a notice from the Corporation of the City of Niagara Falls;
15. Plan 59R-17206, registered on March 11, 2022, being a reference plan;
16. Instrument No. SN716940, registered on March 11, 2022, being an application for absolute title;
17. Instrument No. SN721529, registered on April 12, 2022, being an application (general) from the Corporation of the City of Niagara Falls;
18. Instrument No. SN721530, registered on April 12, 2022, being an application (general) from the Corporation of the City of Niagara Falls;
19. Instrument No. SN721531, registered on April 12, 2022, being an application (general) from the Corporation of the City of Niagara Falls;

20. Instrument No. SN723231, registered on April 26, 2022, being a notice from the Corporation of the City of Niagara Falls;
21. Plan 59R-17292, registered on June 13, 2022, being a reference plan;
22. Instrument No. SN754703, registered on January 13, 2023, being a transfer easement from the Debtor to Anastasia Georgina Loukas and 2779006 Ontario Inc.;
23. Instrument No. SN754853, registered on January 16, 2023, being a land registrar's order from the Niagara South Land Registry Office; and
24. Instrument No. SN763208, registered on April 17, 2023, being a notice from Anastasia Georgina Loukas, 2779006 Ontario Inc. and the Debtor.

**SCHEDULE "D"**  
**ASSUMED CONTRACTS**

**[Draft Note: Confirm]**

# APPENDIX I

---

**From:** Maya Poliak <Maya@chaitons.com>  
**Sent:** October 28, 2024 12:31 PM  
**To:** Pawel Fugiel  
**Cc:** Howard Manis; Noah Goldstein; Harvey G. Chaiton; Lynda Christodoulou  
**Subject:** RE: MarshallZehr vs La Pue International  
**Attachments:** Re: MarshallZehr vs La Pue International  
  
**Importance:** High

Good afternoon Pawel

The agreement was terminated late last week and we have written to the Court this morning to request that the November 12 hearing date be vacated.

Attached please find the correspondence from the Receiver to your counsel from the month of September where you and your counsel were expressly advised that for your offer to be considered, the Receiver needs to be provided with evidence that the purchaser has the financial ability to close the transaction. We have never been provided with same, despite multiple requests. If you would like the Receiver to consider your previous offer, please provide the requested evidence as soon as possible. If you intend to resubmit a new offer, please include evidence of financing.

Thank you

---

**Maya Poliak | Partner**  
**Chaitons LLP | T: 416.218.1161**

---

**From:** Pawel Fugiel <lapueinternational@gmail.com>  
**Sent:** Monday, October 28, 2024 12:23 PM  
**To:** Maya Poliak <Maya@chaitons.com>  
**Cc:** Howard Manis <hmanis@manislaw.ca>; Noah Goldstein <ngoldstein@ksvadvisory.com>; Harvey G. Chaiton <Harvey@chaitons.com>; Lynda Christodoulou <LyndaC@chaitons.com>  
**Subject:** Re: MarshallZehr vs La Pue International

**CAUTION: [External]**

Hi Maya,

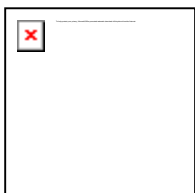
Thank you for informing me. Could you please advise why this information was not shared with me sooner? Especially, when it was the buyer and myself who was the only one submitting the offer? When was the agreement terminated?



Does that mean the court date on November 12th is terminated?

Thank you,

**Pawel Fugiel**  
**C.E.O**



**La Pue International Inc.**

6158 Allendale Ave | Niagara Falls | ON | L2G 0A5 | Canada  
Direct: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Mon, Oct 28, 2024 at 11:51 AM Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)> wrote:

Good morning Pawel

The purchaser has failed to comply with conditions of the agreement and, as such, the agreement was terminated last week. The property is being re-listed. If you are interested in resubmitting your APS, we suggest that you proceed to do so as soon as possible and provide us with evidence of financing.

Thank you,

---

**Maya Poliak | Partner**  
**Chaitons LLP | T: 416.218.1161**

---

**From:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Sent:** Friday, October 25, 2024 4:58 PM  
**To:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Cc:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Harvey G. Chaiton <[Harvey@chaitons.com](mailto:Harvey@chaitons.com)>; Lynda Christodoulou <[LyndaC@chaitons.com](mailto:LyndaC@chaitons.com)>  
**Subject:** Re: MarshallZehr vs La Pue International

CAUTION: [External]

Hi Maya

Please provide the motion materials for November 12.

Thank you,

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Tue, Oct 8, 2024 at 4:18 PM Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)> wrote:

Howard

We write to advise you that the Receiver has accepted another offer and will be proceeding to Court to approve this offer. The Court provided us with November 12 and November 13 as potential dates. Please advise if you have a preference for one of these two dates by tomorrow morning. If we don't hear from you we will be asking the Court to schedule this hearing for November 12, 2024.

Sincerely,

---

**Maya Poliak | Partner**  
**Chaitons LLP | T: 416.218.1161**

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** Tuesday, October 1, 2024 8:57 AM  
**To:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>  
**Cc:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Harvey G. Chaiton <[Harvey@chaitons.com](mailto:Harvey@chaitons.com)>  
**Subject:** RE: MarshallZehr vs La Pue International

CAUTION: [External]

Noah,

We are trying to get proof of the funds but I think that we need a few more days as the lender is finalizing its Commitment.

Please give us a bit more time as our client really wants his project back.

Given the pending holidays for most of the balance of the week, I am hopeful that you will afford us the necessary time as I believe that we put in a solid Offer.

Howard



**Howard F. Manis**  
**MANIS LAW**

• Bankruptcy & Insolvency • Commercial

(416) 417-7257

[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)

[www.ManisLaw.ca](http://www.ManisLaw.ca)

 2300 Yonge Street, Suite 1600, Toronto

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---

**From:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>

**Sent:** September 30, 2024 8:15 PM

**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>

**Cc:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; [harvey@chaitons.com](mailto:harvey@chaitons.com)

**Subject:** Re: MarshallZehr vs La Pue International

Hi Howard,

We are reviewing another agreement. For your agreement to even be considered, we need proof of funds by tomorrow.

Thanks,

Noah

Noah Goldstein

416.844.4842

On Sep 28, 2024, at 6:44 PM, Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)> wrote:

Noah

We expect to have an unconditional proof of funds early this week. Please confirm that this is satisfactory.

Howard

Sent from my iPhone

On Sep 23, 2024, at 9:13 AM, Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)> wrote:

Hi Pawel,

In order for us to consider this transaction, we need to see proof of financing, including proof of funds and/or an unconditional commitment letter. We need that before end of day today. Please let us know if that's possible.

Thank you,

Noah

Noah Goldstein

(m) 416.844.4842

---

**From:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Sent:** September 23, 2024 7:54 AM  
**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Cc:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; [Harvey@chaitons.com](mailto:Harvey@chaitons.com)  
**Subject:** Re: MarshallZehr vs La Pue International

Good morning Noah

Definitely we will provide you financial capability for the transaction.

Lender can secure the fund in trust for this transaction very quickly after we know everything in my offer is accepted.

Please advise.

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Sun, Sep 22, 2024 at 11:45 AM Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)> wrote:

Noah,

We will ask our client to obtain confirmation of the financing.

Howard

<image001.png>

This e-mail and its attachments ("Communication") is solely for the use of the intended recipient(s). It may contain confidential information, personal information protected under privacy laws, and be subject to solicitor-client privilege and/or attorney-client privilege. If you are not an intended recipient, any copying, use, disclosure, or distribution of this Communication is prohibited. If you receive this Communication in error, please notify the sender immediately by reply e-mail, delete the original transmission, and destroy all copies.

---

**From:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>  
**Sent:** September 22, 2024 11:44 AM  
**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; 'Harvey@chaitons.com' <[Harvey@chaitons.com](mailto:Harvey@chaitons.com)>  
**Subject:** RE: MarshallZehr vs La Pue International

Hi Howard, we have another offer in hand. Can you please show us by tomorrow that Pawel has the financial capability to close this transaction?

Noah Goldstein

(m) 416.844.4842

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** September 22, 2024 10:42 AM  
**To:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: MarshallZehr vs La Pue International

Noah,

Hope all is well.

Please be advised that our client submitted a very good unconditional offer to Colliers in the past day or two, the receipt of which has been confirmed by the sales representative at Colliers.

We look forward to hearing from the Receiver.

Howard

<image001.png>

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---

**From:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>  
**Sent:** August 7, 2024 6:59 PM  
**To:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** Re: MarshallZehr vs La Pue International

Pawel, are you putting in an offer?



Noah Goldstein

416.844.4842

On Aug 7, 2024, at 4:29 PM, Pawel Fugiel  
<[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)> wrote:

Does KSV have a new buyer?

Colliers has informed me that they are not accepting any more offers because the buyer had provided the deposits and offer is firm. Can you confirm and provide more details on the transaction.

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Wed, Aug 7, 2024 at 3:33 PM Noah Goldstein  
<[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)> wrote:

Hi Pawel, the transaction was terminated.

Noah Goldstein

416.844.4842

On Aug 7, 2024, at 2:33 PM, Pawel Fugiel  
<[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)> wrote:

Noah,

Can you confirm the transaction with Leakshore  
Lux was terminated and provide a documentation  
about termination.

Or The Receiver ( KSV) still working with the  
Leakshore Lux to complete the closing?

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.

C: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

<image001.png>



## Daisy Jin

---

**From:** Noah Goldstein <ngoldstein@ksvadvisory.com>  
**Sent:** September 30, 2024 8:15 PM  
**To:** Howard Manis  
**Cc:** Pawel Fugiel; Maya Poliak; Harvey G. Chaiton  
**Subject:** Re: MarshallZehr vs La Pue International

CAUTION: [External]

Hi Howard,

We are reviewing another agreement. For your agreement to even be considered, we need proof of funds by tomorrow.

Thanks,

Noah  
Noah Goldstein  
416.844.4842

On Sep 28, 2024, at 6:44 PM, Howard Manis <hmanis@manislaw.ca> wrote:

Noah

We expect to have an unconditional proof of funds early this week. Please confirm that this is satisfactory.

Howard

Sent from my iPhone

On Sep 23, 2024, at 9:13 AM, Noah Goldstein <ngoldstein@ksvadvisory.com> wrote:

Hi Pawel,

In order for us to consider this transaction, we need to see proof of financing, including proof of funds and/or an unconditional commitment letter. We need that before end of day today. Please let us know if that's possible.

Thank you,

Noah

Noah Goldstein  
(m) 416.844.4842

---

**From:** Pawel Fugiel <lapueinternational@gmail.com>  
**Sent:** September 23, 2024 7:54 AM  
**To:** Howard Manis <hmanis@manislaw.ca>  
**Cc:** Noah Goldstein <ngoldstein@ksvadvisory.com>; Maya Poliak <Maya@chaitons.com>; Harvey@chaitons.com  
**Subject:** Re: MarshallZehr vs La Pue International

Good morning Noah

Definitely we will provide you financial capability for the transaction.

Lender can secure the fund in trust for this transaction very quickly after we know everything in my offer is accepted.

Please advise.

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Sun, Sep 22, 2024 at 11:45 AM Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)> wrote:

Noah,

We will ask our client to obtain confirmation of the financing.

Howard

<image001.png>

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**From:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>  
**Sent:** September 22, 2024 11:44 AM  
**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; 'Harvey@chaitons.com' <[Harvey@chaitons.com](mailto:Harvey@chaitons.com)>  
**Subject:** RE: MarshallZehr vs La Pue International

Hi Howard, we have another offer in hand. Can you please show us by tomorrow that Pawel has the financial capability to close this transaction?

Noah Goldstein

(m) 416.844.4842

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** September 22, 2024 10:42 AM  
**To:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: MarshallZehr vs La Pue International

Noah,

Hope all is well.

Please be advised that our client submitted a very good unconditional offer to Colliers in the past day or two, the receipt of which has been confirmed by the sales representative at Colliers.

We look forward to hearing from the Receiver.

Howard

<image001.png>

This e-mail and its attachments ("Communication") is solely for the use of the intended recipient(s). It may contain confidential information, personal information protected under privacy laws, and be subject to solicitor-client privilege and/or attorney-client privilege. If you are not an intended recipient, any copying, use, disclosure, or distribution of this Communication is prohibited. If you receive this Communication in error, please notify the sender immediately by reply e-mail, delete the original transmission, and destroy all copies.

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**From:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>

**Sent:** August 7, 2024 6:59 PM

**To:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Cc:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Subject:** Re: MarshallZehr vs La Pue International

Pawel, are you putting in an offer?

Noah Goldstein

416.844.4842

On Aug 7, 2024, at 4:29 PM, Pawel Fugiel  
<[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)> wrote:

Does KSV have a new buyer?

Colliers has informed me that they are not accepting any more offers because the buyer had provided the deposits and offer is firm. Can you confirm and provide more details on the transaction.

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Wed, Aug 7, 2024 at 3:33 PM Noah Goldstein  
<[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)> wrote:

Hi Pawel, the transaction was terminated.

Noah Goldstein

416.844.4842

On Aug 7, 2024, at 2:33 PM, Pawel Fugiel  
<[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)> wrote:

Noah,

Can you confirm the transaction with Leakshore Lux was terminated and provide a documentation about termination.

Or The Receiver ( KSV) still working with the Leakshore Lux to complete the closing?



--  
PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

<image001.png>

# APPENDIX J

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT dated the \_\_2\_\_ day of \_\_November\_\_\_\_, 2024.

### BETWEEN:

**KSV RESTRUCTURING INC.**, in its capacity as Court-appointed receiver of La Pue International Inc., and not in its personal or corporate capacity and without personal or corporate liability  
(the “Vendor”)

- and -

**PAWEL FUGIEL IN TRUST FOR A CORPORATION TO BE INCORPORATED AND WITHOUT PERSONAL LIABILITY**  
(the “Purchaser”)

### RECITALS:

- A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated October 19, 2023 (the “**Receivership Order**”), the Vendor was appointed as receiver over all property, assets and undertakings of La Pue International Inc. (“**La Pue**”), including, without limitation, the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario and bearing the legal description described in Schedule “B” hereto;
- B. Pursuant to an Order of the Court dated December 20, 2023, the Receiver was authorized and directed to conduct a process for the sale of the Property; and
- C. Subject to the Court issuing the Approval and Vesting Order, the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, the right, title, and interest of the Debtor in and to the Purchased Assets on the terms and conditions set out herein.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

### 1. DEFINITIONS.

In this Agreement, including the Recitals, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

- (a) “**Agreement**” means this asset purchase agreement, including the attached Schedules to this Agreement, as it or they may be amended or supplemented from time to time;
- (b) “**Applicable Laws**” means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Government Authority;
- (c) “**Application**” has the meaning ascribed to it in Subsection 14(b)(i);
- (d) “**Approval and Vesting Order**” means an order made by the Court approving the Transaction and vesting in the Purchaser all the right, title and interest of the Debtor in the Purchased Assets free and clear of all Encumbrances (except for Permitted

Encumbrances), in form and substance satisfactory to the Vendor and the Purchaser, acting reasonably;

- (e) **"Assignment Order"** has the meaning ascribed to it in Section 11;
- (f) **"Assumed Agreements of Purchase and Sale"** means the Existing Agreements of Purchase and Sale to be assumed by the Purchaser on Closing and listed on **Schedule "A"** attached hereto;
- (g) **"Assumed Contracts"** has the meaning ascribed to it in Section 10;
- (h) **"Assumed Liabilities"** has the meaning ascribed to it in Subsection 9(a);
- (i) **"Business Day"** means a day on which banks are open for business in the City of Toronto, but does not include a Saturday, Sunday, or statutory holiday recognized in the Province of Ontario;
- (j) **"Cash Collateral"** means all cash security deposited by or on behalf of the Debtor with the City of Niagara Falls and/or Taron or with a financial institution, as required by the City of Niagara Falls and/or Taron in connection with the development and construction of the Project;
- (k) **"Closing"** has the meaning ascribed to it in Section 13;
- (l) **"Closing Date"** has the meaning ascribed to it in Section 13;
- (m) **"Contracts"** means all contracts, agreements, leases and arrangements to which the Debtor is bound or affected in connection with the Purchased Assets and/or the Project;
- (n) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (o) **"Cure Costs"** means all monetary Liabilities of the Debtor under the Purchased Assets up to and including the date of assignment that must be paid or otherwise satisfied to cure all monetary and other defaults under the Purchased Assets, save and except for any and all realty taxes (including any and all utility charges that may be outstanding) or other charges due and owing to any municipality, city, province or federal governmental authority, including but not limited to any sidewalk, road or other improvements so required as well as any and all real estate commissions, consultants, engineers, architects due and owing from the development of the Purchased Assets including the Existing Agreements of Purchase and Sale (as defined below);
- (p) **"Debtor"** means La Pue International Inc.;
- (q) **"Deposit"** has the meaning ascribed to it in Subsection 5(a);
- (r) **"DRA"** has the meaning ascribed to it in Subsection 14(a)(i);
- (s) **"Encumbrances"** means any and all security interests, mortgages, charges, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, leases, title retention agreements, reservations of ownership, demands, executions, levies, charges, Work Orders, rights of way, options or other rights to acquire any interest in any assets, or other financial or monetary claims, whether or not same have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and all contracts to create any of the foregoing, or encumbrances of any kind or character whatsoever, other than Permitted Encumbrances;

- (t) **“Environmental Laws”** means any and all applicable international, federal, provincial, municipal or local laws, by-laws, statutes, regulations, treaties, orders, judgments, decrees, ordinances, official directives and all authorizations relating to the environment, occupational health and safety, health protection or any Hazardous Materials;
- (u) **“ETA”** means the *Excise Tax Act* (Canada);
- (v) **“Excluded Assets”** has the meaning ascribed to it in Section 12;
- (w) **“Existing Agreements of Purchase and Sale”** means the existing agreements of purchase and sale entered into by the Debtor with respect to the purchase and sale of condominium units within the Project;
- (x) **“Government Authority”** means any Person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal governments having or claiming to have jurisdiction over part or all of the Purchased Assets, the Transaction and/or one or both of the Parties;
- (y) **“HST”** has the meaning ascribed to it in Section 28(a);
- (z) **“Hazardous Materials”** means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority and any **“Contaminants”**, **“Dangerous Substances”**, **“Hazardous Materials”**, **“Hazardous Substances”**, **“Hazardous Wastes”**, **“Industrial Wastes”**, **“Liquid Wastes”**, **“Pollutants”** and **“Toxic Substances”**, all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental, health and/or safety matters and, not to limit the generality of the foregoing, includes asbestos, urea formaldehyde foam insulation and mono or poly-chlorinated biphenyl wastes;
- (aa) **“Indemnitees”** has the meaning ascribed to it in Subsection 20(a);
- (bb) **“Lands”** means the lands and premises legally described in **Schedule “B”** attached hereto;
- (cc) **“Liabilities”** means any and all claims, actions, causes of action, suits, proceedings, applications, complaints, costs, expenses, charges, debts, liabilities, losses, damages, orders, judgments, demands, fines, penalties, and obligations of any nature of kind whatsoever, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise;
- (dd) **“Party”** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **“Parties”** means collectively the Vendor and the Purchaser;
- (ee) **“Permits”** means all authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required by any Government Authority in respect of the Structure, the Lands or the Project;
- (ff) **“Permitted Encumbrances”** means those Encumbrances listed in **Schedule “C”** attached hereto and without duplication those encumbrances, easements and restrictive covenants listed or to be listed on Schedule “D” to the Approval and Vesting Order;

- (gg) **“Person”** means an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (hh) **“Prepaid Expenses and Deposits”** means all prepayments, prepaid charges, deposits, security deposits, sums and fees in any way related to the Purchased Assets, but excluding the Cash Collateral;
- (ii) **“Project”** means the two (2) residential buildings and one (1) mixed-use building to have been developed and constructed by the Debtor on the Lands;
- (jj) **“Project Documents”** means all plans, designations, drawings, designs, agreements, and specifications in connection with the Project that are in the possession or control of the Vendor (it being acknowledged that the Vendor is under no obligation to incur additional expense to obtain such plans, designs and specifications);
- (kk) **“Purchase Price”** has the meaning ascribed thereto in Section 4;
- (ll) **“Purchased Assets”** means all of the Debtor’s right, title and interest in the following assets:
  - (i) the Assumed Agreements of Purchase and Sale, if any;
  - (ii) the Assumed Contracts;
  - (iii) the Cash Collateral;
  - (iv) the Lands;
  - (v) the Permits;
  - (vi) the Prepaid Expenses and Deposits;
  - (vii) the Project Documents;
  - (viii) all Rights under or pursuant to all warranties, representations and guarantees, express, implied, or otherwise of or made by suppliers to the Debtor in connection with the Purchased Assets; and
  - (ix) the Structure,and in each case, other than the Excluded Assets;
- (mm) **“Purchaser”** has the meaning ascribed to it on page 1 above;
- (nn) **“Purchaser’s Solicitors”** means the firm of Manis Law (Howard Manis – hmanis@manislaw.ca);
- (oo) **“Receiver”** means KSV Restructuring Inc. in its capacity as receiver of the Debtor appointed pursuant to the Receivership Order;
- (pp) **“Receiver’s Certificate”** means the certificate attached as a schedule to the Approval and Vesting Order confirming *inter alia* that the Receiver has received the Purchase Price and all conditions to Closing, if any, have been satisfied or waived by the Parties;
- (qq) **“Receivership Order”** has the meaning ascribed to it in the Recitals;

- (rr) **"Rights"** has the meaning ascribed to it in Section 11;
- (ss) **"Statement of Adjustments"** has the meaning ascribed to it in Subsection 24(a)(iii);
- (tt) **"Structure"** means the structure(s) situated on the Lands, including all improvements thereto and all fixtures forming a part thereof; **NTD: KSV are there any structures on this property?**
- (uu) **"TERS"** has the meaning ascribed to it in Subsection 14(d)(iii);
- (vv) **"Transaction"** means the transaction contemplated by this Agreement;
- (ww) **"Vendor"** has the meaning ascribed to it in the Recitals;
- (xx) **"Vendor's Solicitors"** means the firm of Chaitons LLP, 5000 Yonge Street, 10<sup>th</sup> Floor, Toronto, Ontario (Attention: Mark Willis-O'Connor), E-mail: [markw@chaitons.com](mailto:markw@chaitons.com)); and
- (yy) **"Work Orders"** means, collectively, all work orders issued by a Government Authority, notices of violation issued by a Government Authority, and other matters of non-compliance with zoning and other requirements of a Government Authority relating to the Lands, the Structure and/or the Project.

## 2. SCHEDULES.

The following schedules are appended to this Agreement:

- Schedule "A" Assumed Agreements of Purchase and Sale
- Schedule "B" The Lands
- Schedule "C" The Permitted Encumbrances
- Schedule "D" Assumed Contracts

## 3. AGREEMENT TO PURCHASE AND SELL.

On the Closing Date, the Vendor shall sell the Purchased Assets and assign the Assumed Liabilities and the Purchaser shall purchase the Purchased Assets and assume the Assumed Liabilities, upon and subject to the terms of this Agreement.

## 4. PURCHASE PRICE.

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets shall be the sum of \_\_\_\_\_ (the "**Purchase Price**").

## 5. SATISFACTION OF PURCHASE PRICE.

The Purchase Price shall be paid and satisfied as follows:

- (a) a deposit in the amount of \_\_\_\_\_ of the Purchase Price (the "**Deposit**"), to be paid by the Purchaser to the Vendor in trust contemporaneously with the delivery by the Purchaser of a copy of this Agreement executed by the Purchaser;
- (b) Deposit schedule as follows:
  - (i) \_\_\_\_\_ — 35 Business days upon acceptance.

- (ii) [REDACTED] — 70 business days after acceptance.
- (c) the balance of the Purchase Price, subject to the adjustments contemplated in this Agreement, shall be paid by the Purchaser to the Vendor on the Closing Date; and
- (d) by the assumption of the Assumed Liabilities effective as of the Closing Date.

The Deposit and the balance due on Closing shall be paid by way of certified cheque, bank draft or wire drawn on or issued by a Canadian chartered bank. The Vendor and the Purchaser acknowledge and agree that they shall each make their own allocations of the Purchase Price between the Purchased Assets for the purposes of the *Income Tax Act* (Canada) and any filings in accordance with the provisions thereof.

#### 6. DEPOSIT.

The Deposit shall be held in trust by the Vendor in a non-interest bearing trust account and shall be:

- (a) credited on account of the Purchase Price on the Closing Date if the Transaction is completed;
- (b) refunded to the Purchaser, without deduction, if the Transaction is not completed, provided that the Purchaser is not in default under this Agreement; or
- (c) retained by the Vendor as a genuine pre-estimate of liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under this Agreement and at law.

#### 7. APPROVAL AND VESTING ORDER.

Within seven (7) Business Days following the execution of this Agreement by the Parties, the Vendor will seek an appointment with the Court for a motion to be heard within thirty (30) days, or otherwise as soon as reasonably possible, to seek the Approval and Vesting Order. The Purchaser shall, at its sole cost and expense, promptly provide to the Vendor all such information and assistance as the Vendor may reasonably require to obtain the Approval and Vesting Order. In the event that the Court does not grant the Approval and Vesting Order, the (i) Vendor covenants and agrees to return the Deposit to the Purchaser without deduction and/or interest in accordance with the provisions of this Agreement and (ii) Purchaser acknowledges and agrees that it shall have no further rights or remedies against the Vendor arising out of the termination of this Agreement.

#### 8. CLOSING ADJUSTMENTS.

Adjustments shall be made, as of 12:01 a.m. on the Closing Date, for all operating costs, realty taxes, local improvement rates, municipal/provincial levies and charges, water and assessment rates, security deposits and interest thereon (if any), utilities, and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a receivership sale. The day of Closing shall be for the account of the Purchaser. Other than as provided for in this Section 8, there shall be no adjustments to the Purchase Price.

#### 9. ASSUMED LIABILITIES.

- (a) On Closing, the Purchaser shall assume and be liable for the following Liabilities from and after Closing (collectively, the “**Assumed Liabilities**”):
  - (i) the Permitted Encumbrances;
  - (ii) all Liabilities under the Assumed Contracts;



- (iii) all Liabilities under the Assumed Agreements of Purchase and Sale, including without limitation, any Liabilities arising out of or in connection with the *Ontario New Home Warranties Plan Act*; and
  - (iv) all Liabilities arising from the Purchaser's ownership of the Purchased Assets after Closing.
- (b) The Purchaser is not assuming, and shall not be deemed to have assumed, any Liabilities of the Debtor other than the Assumed Liabilities, including without limitation any Liabilities arising or accruing from the ownership or use of the Purchased Assets prior to the Closing.

10. **ASSUMED CONTRACTS.**

The Purchaser shall assume on Closing the Contracts listed on **Schedule "D"** attached hereto (the "**Assumed Contracts**"). The Purchaser shall pay the applicable Cure Costs related to the Assumed Contracts on Closing and shall provide evidence of such payment to the Vendor.

11. **ASSIGNMENT OF PURCHASED ASSETS.**

To the extent that any of the Purchased Assets to be transferred to the Purchaser on the Closing, or any claim, right or benefit arising under or resulting from such Purchased Assets (collectively, the "**Rights**") is not capable of being transferred without the approval, consent or waiver of any Person, this Agreement shall not constitute an agreement to transfer such Rights unless and until such approval, consent, waiver or order of the Court has been obtained (the "**Assignment Order**") and the Purchaser has paid all applicable Cure Costs related to such Purchased Assets.

12. **EXCLUDED ASSETS.**

The Purchaser may, at its option and upon written notice to the Vendor not less than two (2) Business Days prior to the Closing Date, exclude any of the Purchased Assets from the Transaction (the "**Excluded Assets**"), whereupon such assets shall be deemed to form part of the Excluded Assets. In the event that the Purchaser exercises such option, there shall be no reduction and/or abatement to the Purchase Price as a result of such exclusion(s).

13. **CLOSING DATE.**

The Transaction shall be completed on or before January 30, 2025, or such other date as the Parties may agree in writing (the "**Closing Date**" or "**Closing**"). If, prior to the Closing, the Approval and Vesting Order (or any orders dismissing appeals thereof) shall have been appealed or a proceeding shall have been commenced to restrain or prevent the completion of the Transaction, then notwithstanding the foregoing and/or anything contained herein to the contrary, the Vendor shall have the option, exercisable by it, as it may determine in its sole and unfettered discretion, to extend the Closing Date by written notice thereof to the Purchaser to the date this is no later than seven (7) Business Days immediately following the date that any such appeals and/or proceedings are dismissed.

14. **ELECTRONIC REGISTRATION.**

- (a) The Purchaser authorizes the Purchaser's Solicitor to enter into a document registration agreement with the Vendor's Solicitors in the form as agreed by the Parties (the "**DRA**"), establishing the procedures and timing for completing this transaction.
- (b) The delivery and exchange of the closing documents:
  - (i) shall not occur contemporaneously with the registration of the application for vesting order (the "**Application**") and other registrable documentation; and

- (ii) shall be governed by the DRA, pursuant to which the Vendor's Solicitors and Purchaser's Solicitors shall hold all closing documents in escrow, and will not be entitled to release them except in strict accordance with the provisions of the DRA.
- (c) The Purchaser expressly acknowledges and agrees that the Vendor will not release the Receiver's Certificate confirming the effectiveness of the Approval and Vesting Order until the balance of funds due on Closing are remitted to the Vendor or as it may direct.
- (d) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties that an effective tender shall be deemed to have been made by the Vendor upon the Purchaser when the Vendor's Solicitors have:
  - (i) delivered all documents required to be delivered by the Vendor to the Purchaser pursuant to Section 24;
  - (ii) advised the Purchaser's Solicitors in writing that the Vendor is ready, willing and able to complete the Transaction in accordance with the terms and provisions of this Agreement; and
  - (iii) completed all steps required by the electronic registration system ("**TERS**") to complete the Transaction that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's Solicitors, and specifically when the "**completeness signatory**" for the Application has been electronically "**signed**" by the Vendor's Solicitors,

without the necessity of personally attending upon the Purchaser or the Purchaser's Solicitors with the closing documents, and without any requirement to have an independent witness evidencing the foregoing.

- (e) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties that an effective tender shall be deemed to have been made by the Purchaser upon the Vendor, when the Purchaser's Solicitors have:
  - (i) delivered the balance due at Closing and all the documents required to be delivered by the Purchaser to the Vendor pursuant to Section 25;
  - (ii) advised the Vendor's Solicitors in writing that the Purchaser is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
  - (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Purchaser's Solicitors without the cooperation or participation of the Vendor's Solicitors, and specifically when the "**completeness signatory**" for the Application has been electronically "**signed**" by the Purchaser's Solicitors,

without the necessity of personally attending upon the Vendor or the Vendor's Solicitors with the closing documents, and without any requirement to have an independent witness evidencing the foregoing.

- (f) If through no fault of the Purchaser's Solicitors or the Vendor's Solicitors TERS is unavailable on the Closing Date, such that the Purchaser's Solicitors are unable to register the Application for Vesting Order, then the Transaction shall be completed in escrow in accordance with the terms of the DRA which shall apply until such time as TERS becomes available. Upon TERS becoming available, the Vendor's Solicitors shall advise the Purchaser's Solicitors forthwith and the Parties shall arrange to complete the

registration of the Approval and Vesting Order as expeditiously as possible, whereupon the escrow shall be released.

In the event of any conflict or inconsistency between the terms of this Section 14 and the terms of the DRA, the terms of this Section 14 shall prevail.

**15. PRE-CLOSING RISK.**

The Purchased Assets are and shall remain at the Vendor's risk until Closing and the Vendor shall hold all insurance policies and the proceeds thereunder, in trust, for the Parties as their respective interests may appear pending Closing.

**16. PURCHASER'S REPRESENTATIONS AND WARRANTIES.**

- (a) The Purchaser represents and warrants to the Vendor that, as at the date hereof:
  - (i) it is a corporation duly incorporated, organized and validly subsisting under the laws of the Province of Ontario and has all requisite corporate power, authority and capacity to execute and deliver and to perform each of its obligations pursuant to this Agreement;
  - (ii) this Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms;
  - (iii) it is or will on Closing be a registrant under Part IX of the ETA;
  - (iv) it is or will on Closing be a builder and vendor licensed under the Home Construction Regulatory Authority;
  - (v) it has made adequate arrangements to have sufficient funds available to satisfy its obligation to pay the Purchase Price to the Vendor on Closing;
  - (vi) it is not a non-resident within the meaning of the *Income Tax Act* (Canada); and
  - (vii) the representations and warranties of the Purchaser contained in this Section 16 or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive Closing.
- (b) The Purchaser shall promptly deliver to the Vendor written notice specifying the occurrence or likely occurrence of any event which may result in any of the Purchaser's representations and warranties contained in this Agreement not continuing to be true as at Closing.

**17. VENDOR'S REPRESENTATIONS AND WARRANTIES.**

The Vendor represents and warrants to the Purchaser that, as at the date hereof:

- (a) it is a registrant under Part IX of the ETA;
- (b) it is not a non-resident within the meaning of the *Income Tax Act* (Canada); and
- (c) the Receivership Order is in full force and effect.

**18. "AS IS, WHERE IS".**

The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an “as is, where is” and “without recourse” basis. Other than as specifically indicated herein, the Vendor nor any of its directors, officers, employees, professional consultants or advisors, agents or representatives make or grant any representations, warranties, terms, conditions, understandings or collateral agreements, express or implied, statutory or otherwise, including, without limitation, under the *Sale of Goods Act* (Ontario), all of which are expressly waived by the Purchaser, with respect to title, encumbrances, outstanding liens, assignability, merchantability, condition, description, present or future uses, fitness for purpose or use, quality, quantity, cost, value or the validity, invalidity, or enforceability of any patent, copyright or trademark right, or as to any other matter whatsoever regarding the Purchased Assets or the Debtor. Without limiting the generality of the foregoing, the Purchaser acknowledges having conducted its own due diligence and investigations in respect of the environmental state of the Purchased Assets, the existence, nature, kind, state or identity of any Hazardous Materials on, under, or about the Purchased Assets, the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under any Environmental Law, and the existence, nature, kind, state or identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Materials whether on, under or about the Purchased Assets or elsewhere. The Purchaser has relied entirely on its own judgment, inspection and investigation of the Purchased Assets, and further acknowledges that: at its own expense, it has inspected the Purchased Assets; and in entering into this Agreement and proceeding with and completing its purchase of the Purchased Assets pursuant hereto, it is satisfied with and has relied entirely on its own inspection, investigations and judgment.

19. **ENCROACHMENTS.**

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Purchased Assets, or encroachments onto adjoining lands, or to remove same, or for any matters relating to any Applicable Laws, including without limitation, zoning regulations or by-laws in existence now or in the future affecting any of the Purchased Assets.

20. **INDEMNIFICATION AND RELEASE BY PURCHASER.**

- (a) The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees, shareholders, agents and representatives (collectively, the “**Indemnitees**”) from and against any and all Liabilities incurred by or asserted against them arising out of or in connection with the Purchased Assets after the Closing Date, including without limitation any Liabilities relating to any Environmental Laws and/or Liabilities imposed by Tarion in connection with the Assumed Agreements of Purchase and Sale, if any.
- (b) The Purchaser agrees to release and discharge the Vendor together with its directors, officers, employees, agents, and representatives from every Liability of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Materials relating to the Purchased Assets. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up or remove or pay for the cleanup or removal of any Hazardous Materials, remediate any condition or matter in, on, under or in the vicinity of the Purchased Assets, or seek an abatement in the Purchase Price or damages in connection with any Hazardous Materials.
- (c) The foregoing provisions shall not merge on Closing and shall remain in effect thereafter without limitation.

21. **NON-REGISTRATION.**

The Purchaser hereby covenants and agrees that it shall not register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document, instrument or court order or judgement providing evidence of this Agreement against title to the Lands. Should the Purchaser be in default of its obligations under this Section 21, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caution, certificate of pending litigation or other

document providing evidence of this Agreement or any assignment of this Agreement from the title to the Purchased Assets. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Purchased Assets. The Purchaser acknowledges and agrees that the Vendor may rely on the terms of this Section 21 as a full estoppel to any proceeding, suit, claim, motion or other action brought by the Purchaser in order to obtain and attempt to register against the title to the Lands any of the items set out in this Section 21.

**22. VENDOR'S CLOSING CONDITIONS.**

- (a) The Vendor shall not be obliged to complete the transaction contemplated hereunder unless, on or before the Closing Date, the following conditions shall have been satisfied, it being understood that the conditions are included for the exclusive benefit of the Vendor and may be waived in writing in whole or in part by the Vendor at any time:
  - (i) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date with the same force and effect as if such representations and warranties were made at such time, and a certificate of the Purchaser, dated as of the Closing Date, to that effect shall have been delivered to the Vendor, such certificate to be in a form and substance satisfactory to the Vendor, acting reasonably;
  - (ii) all of the terms, covenants and agreements set forth in this Agreement to be complied with or performed by the Purchaser on or before the Closing Date shall have been complied with or performed by the Purchaser;
  - (iii) no court order restraining or prohibiting the Closing shall have been made;
  - (iv) the Purchased Assets shall not have been removed from the Vendor's control;
  - (v) the Approval and Vesting Order shall have been issued and no appeals thereof shall be pending; and
  - (vi) the delivery of the documents referenced in Section 25 to the Vendor.

**23. PURCHASER'S CLOSING CONDITIONS.**

The Purchaser shall not be obliged to complete the transaction contemplated herein unless, on or before the Closing Date, the following conditions shall have been satisfied, it being understood that the conditions are included for the exclusive benefit of the Purchaser and may be waived in writing in whole or in part by the Purchaser at any time:

- (a) all the representations and warranties of the Vendor contained in this Agreement shall be true and correct in all material respects on the Closing Date with the same force and effect as if such representations and warranties were made at such time, and a certificate of the Vendor, dated as of the Closing Date, to that effect shall have been delivered to the Purchaser, such certificate to be in a form and substance satisfactory to the Purchaser, acting reasonably;
- (b) all of the terms, covenants and agreements set forth in this Agreement to be complied with or performed by the Vendor on or before the Closing Date shall have been complied with or performed by the Vendor;

- (c) no court order restraining or prohibiting the Closing shall have been made and no legal proceeding shall be pending which enjoins, restricts or prohibits the purchase and sale of the Purchased Assets contemplated hereby;
- (d) the Approval and Vesting Order shall have been issued and no appeals thereof shall be pending;
- (e) the delivery of the documents referenced in Section 24 to the Purchaser; and
- (f) the delivery of a Full and Final Release by the Applicant in the receivership proceeding of any and all liability of the Debtor, its principal, Pawel Fugiel, and their successors and assigns in accordance with the standard form of Releases acceptable to counsel for the Purchaser acting reasonably.

**24. VENDOR'S CLOSING DELIVERIES.**

- (a) The Vendor covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date expressly provided herein:
  - (i) the Approval and Vesting Order;
  - (ii) the Receiver's Certificate;
  - (iii) a statement of adjustments prepared in accordance with Section 8 (the "**Statement of Adjustments**");
  - (iv) a general conveyance and assumption of liabilities with respect to Purchased Assets and the Assumed Liabilities;
  - (v) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Contracts;
  - (vi) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Agreements of Purchase and Sale;
  - (vii) any Assignment Order(s);
  - (viii) a certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada); and
  - (ix) a copy of the Project Documents.

**25. PURCHASER'S CLOSING DELIVERIES.**

The Purchaser covenants to execute, where applicable, and deliver the following to the Vendor at or prior to Closing:

- (a) the balance of the Purchase Price described in Subsection 5(b);
- (b) the Purchaser's certificate setting out that each of the Purchaser's representations and warranties contained in this Agreement are true as at Closing;
- (c) a general conveyance and assumption of liabilities with respect to Purchased Assets and the Assumed Liabilities;
- (d) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Contracts;

- (e) an assignment and assumption agreement with respect to the Debtor's right, title and interest in any Assumed Agreements of Purchase and Sale;
- (f) the Purchaser's certificate described in Subsection 28(b);
- (g) an undertaking with respect to refunds and/or reassessments of all realty taxes attributable to the period prior to the Closing Date;
- (h) the indemnity provided for under Subsection 28(c);
- (i) a certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada);
- (j) a direction re title to confirm the name in which title to the Purchased Assets will be taken, provided that such direction must be provided to the Vendor no less than two (2) Business Days before the hearing date for the motion to obtain the Approval and Vesting Order;
- (k) the Vendor's Solicitors will prepare the application for vesting order in Teraview in accordance with the Purchaser's direction re title; and
- (l) any other documentation relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.
- (m) The Listing Brokerage (Colliers International) will pay the Co-operating Brokerage (Forestwood Real Estate Inc. - Sales representative Lisa Vo) the commission for the property above in the amount of 1% + hst of the purchase price, paid by the Seller to the Listing Brokerage.

**26. DOCUMENTATION PREPARATION AND REGISTRATION.**

The Vendor shall prepare or cause to be prepared all documentation described in Sections 24 and 25 hereof and shall deliver draft documentation to the Purchaser not less than three (3) Business Days prior to Closing. Except as otherwise expressly provided in this Agreement, all such documentation shall be in form and substance satisfactory to the Vendor, acting reasonably. The Purchaser shall be responsible for and pay all registration costs incurred in connection with the Transaction. Except as otherwise expressly provided in this Agreement, each of the Vendor and the Purchaser shall be responsible for and pay all legal and other professional/consultant fees and disbursements incurred by it, directly or indirectly, in connection with this Agreement.

**27. LAND TRANSFER TAXES.**

The Purchaser shall pay all land transfer taxes (as required pursuant to the *Land Transfer Tax Act* (Ontario)) payable in connection with the transfer of the Purchased Assets pursuant to this Agreement.

**28. HARMONIZED SALES TAX.**

- (a) The Purchaser acknowledges and agrees that the transaction contemplated hereunder shall be subject to the goods and services tax and harmonized sales tax ("HST") levied pursuant to the ETA and that HST shall be in addition to and not included in the Purchase Price and shall be collected and remitted in accordance with the ETA.
- (b) If:

- (i) the Vendor is a non-resident of Canada or the Vendor would be a non-resident of Canada but for Subsection 132(2) of the ETA; and/or
- (ii) the Purchaser is a "prescribed recipient" under the ETA and/or is registered under the ETA,

then the Purchaser shall deliver, prior to Closing, its certificate in form prescribed by the ETA or, if no such form is prescribed, then in form satisfactory to the Vendor and the Vendor's Solicitors, certifying that the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate Government Authority all HST payable in respect of the transaction contemplated hereunder. If Subsection (b)(i) hereof shall be applicable, then the Purchaser's certificate shall also include certification of the Purchaser's prescription and/or registration, as the case may be, and the Purchaser's HST registration number. If the Purchaser shall fail to deliver its certificate, then the Purchaser shall tender to the Vendor, at Closing, in addition to the balance otherwise due at Closing, an amount equal to the HST that the Vendor shall be obligated to collect and remit in connection with the said transaction.

- (c) The Purchaser shall indemnify and save harmless the Vendor, its directors, officers, employees, agents and representatives from all claims, liabilities, penalties, interest, costs and legal and other expenses incurred, directly or indirectly, in connection with the assessment of HST payable in respect of the transaction contemplated hereunder.

**29. Remedies for Breach of Agreement.**

If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Receiver under this Agreement, then the Deposit, without deduction, shall be returned to the Purchaser forthwith (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Purchaser's sole right and remedy as a result of the Receiver's breach). If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Purchaser under this Agreement, then the Deposit shall be forfeited to the Receiver as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Receiver would suffer in such circumstances (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Receiver's sole right and remedy as a result of the Purchaser's breach).

**30. Termination If No Breach of Agreement.**

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then:

- (a) all obligations of each of the Receiver and the Purchaser hereunder shall end completely, except those that survive the termination of this Agreement;
- (b) the Deposit, without deduction, shall be returned to the Purchaser forthwith; and

neither Party shall have any right to specific performance, to recover damages or expenses or to any other remedy (legal or equitable) or relief.

**31. PLANNING ACT (ONTARIO).**

This Agreement shall be effective to create an interest in the Purchased Assets for the Purchaser only if Part VI of the *Planning Act* (Ontario) is complied with prior to Closing or if a Court orders the completion of the Transaction notwithstanding what would otherwise be non-compliance with Part VI of the *Planning Act* (Ontario).



**32. NOTICE.**

Any notice given hereunder shall be in writing and delivered or communicated by e-mail to:

- (a) in the case of the Purchaser at:

PAWEL FUGIEL ([pawelfugiel.fugielgroup@gmail.com](mailto:pawelfugiel.fugielgroup@gmail.com))

- (b) with a copy to the Purchaser's Solicitors;

- (c) and in the case of the Vendor at:

KSV Restructuring Inc.  
150 King Street West, Suite 2308  
Toronto, Ontario M5H 1J9

Attention: Noah Goldstein  
Email: [ngoldstein@ksadvisory.com](mailto:ngoldstein@ksadvisory.com)

- (d) with a copy to the Vendor's Solicitors.

Such notice shall be deemed to have been delivered upon delivery or communicated upon transmission unless such notice is delivered or transmitted outside of usual business hours, in which event the notice shall be deemed to have been delivered or transmitted on the next Business Day. A Party may change its address and/or e-mail address by providing notice in accordance with this Section 30.

**33. WAIVER OF CONDITIONS.**

Except as otherwise provided in this Agreement, all conditions contained herein have been inserted for the benefit of either the Vendor or the Purchaser, as indicated, and are conditions of the obligations of such Party to complete the transaction contemplated hereunder at Closing and are not conditions precedent of this Agreement. Any one or more of the said conditions may be waived, in writing, in whole or in part, by the benefiting Party without prejudice to the benefiting Party's right of termination in the event of the non-fulfilment of any other condition, and, if so waived, this Agreement shall be read exclusive of the said condition or conditions so waived. For greater certainty, the closing of the Transaction by a Party shall be deemed to be a waiver by such Party of compliance with any condition inserted for its benefit and not satisfied at Closing.

**34. SEVERABILITY.**

If any provision contained in this Agreement or the application thereof to any Person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of such provision to such Person or circumstances other than those to whom it is held invalid or unenforceable, shall not be affected thereby and each provision contained in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

**35. DIVISION/HEADINGS.**

The division of this Agreement into sections, subsections, paragraphs and subparagraphs and the insertion of headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement or any part hereof.

**36. ENTIRE AGREEMENT.**

This Agreement and the Schedules attached hereto constitute the entire agreement between the Vendor and the Purchaser in respect of the Purchased Assets. Each of the Parties acknowledges that, except as contained in this Agreement, there is no representation, warranty, collateral agreement or condition

(whether a direct or collateral condition or an express or implied condition) which induced it to enter into this Agreement. Each of the Parties agree that all provisions of this Agreement, and all provisions of any and all documents and security delivered in connection herewith, shall not merge and except where otherwise expressly stipulated herein, shall survive Closing.

**37. CUMULATIVE REMEDIES.**

No remedy conferred upon or reserved to one or both of the Parties hereto is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

**38. INTERPRETATION.**

This Agreement shall be read with all changes of gender and number as required by the context.

**39. STATUTE AND SECTION REFERENCES.**

Except as otherwise provided in this Agreement, references to any statute herein shall be deemed to be a reference to such statute and any and all regulations from time to time promulgated thereunder and to such statute and regulations as amended or re-enacted from time to time. Any reference herein to a specific section or sections, paragraph or subparagraphs and/or clause or clauses of any statute or regulations promulgated thereunder shall be deemed to include a reference to any corresponding provision of future law.

**40. TIME OF ESSENCE.**

Time shall in all respects be of the essence hereof provided that the time for the doing or completing of any matter referred to herein may be extended or abridged by an agreement, in writing, executed by the Vendor and the Purchaser or their respective solicitors who are hereby expressly appointed for that purpose.

**41. CURRENCY AND PAYMENT OBLIGATIONS.**

Except as otherwise provided in this Agreement, all dollar amounts referred to in this Agreement are stated in Canadian Dollars and any payment contemplated by this Agreement shall be made by certified cheque, bank draft or wire transfer.

**42. TENDER.**

Any tender of notices, documents and/or monies hereunder may be made upon the Vendor or the Purchaser or their respective solicitors. Monies may be tendered by wire transfer, a negotiable cheque certified or bank draft drawn on or issued by a Canadian chartered bank.

**43. FURTHER ASSURANCES.**

Except as otherwise expressed herein to the contrary, each Party shall, without receiving additional consideration therefor, co-operate with and take such additional actions as may be requested by the other Party, acting reasonably, in order to carry out the purpose and intent of this Agreement.

**44. CONFIDENTIALITY.**

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and, without the Vendor's prior written consent shall not be disclosed to any Person. If for any reason Closing does not occur, all such documents shall forthwith be returned intact to the Vendor and no copies or details thereof shall be

retained by the Purchaser or anyone acting on its behalf. The Purchaser and the Vendor further agree that unless and until the terms of this Agreement become public knowledge in connection with an application to the Court, the Purchaser shall keep such terms confidential and shall not disclose them to anyone except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such Person also keeps such terms confidential as aforesaid.

**45. NON-BUSINESS DAYS.**

In the event that any date specified or any date contemplated in this Agreement shall fall upon a day other than a Business Day, then such date shall be deemed to be the next following Business Day.

**46. GOVERNING LAWS.**

This Agreement has been executed in the Province of Ontario and, for all purposes, shall be construed in accordance with and governed by the laws in effect within the Province of Ontario and the laws of Canada applicable therein.

**47. ASSIGNMENT.**

No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, the Purchaser shall have the right, until five (5) Business Days before the hearing date for the motion to obtain the Approval and Vesting Order, upon written notice to the Vendor's Solicitors, to assign, in whole or part, its rights to acquire the Purchased Assets herein to any company or companies affiliated (as that term is defined in the Ontario *Business Corporations Act*) with the Purchaser, provided that such assignment shall not release the Purchaser from its obligations under this Agreement.

**48. VENDOR'S CAPACITY.**

It is acknowledged by the Purchaser that the Vendor is entering into this Agreement solely in its capacity as Court-Appointed Receiver of the Debtor and that the Vendor shall have no personal or corporate liability under or as a result of this Agreement. Any Liabilities against the Vendor shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as Receiver of the Debtor and shall not apply to its personal property and other assets held by it in any other capacity. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Purchased Assets.

49. **SUCCESSORS AND ASSIGNS.**

This Agreement shall be binding upon and ensure to the benefit of the Parties and their respective successors and permitted assigns.

50. **COUNTERPARTS AND ELECTRONIC TRANSMISSION.**

This Agreement may be executed in any number of original counterparts, with the same effect as if each of the Parties had signed the same document, and will become effective when one or more counterparts have been signed by both of the Parties and delivered to other. All counterparts will be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, will be deemed to be dated the first date set out above and accepted on the date of the last signature, and only one of which need be produced for any purpose.


51. **IRREVOCABLE.**

This Agreement shall be irrevocable by the Purchaser. Monday November 4th, 2024 at 5:00 pm

*[remainder of this page intentionally left blank]*

DATED as of the date first mentioned above.

**PAWEL FUGIEL IN TRUST FOR A  
CORPORATION TO BE INCORPORATED AND  
WITHOUT PERSONAL LIABILITY**

Per:   
Name: Pawel Fugiel  
Title: President

Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation.

The Vendor hereby accepts this Agreement and agrees with the Purchaser to complete the Transaction, subject to and in accordance with the provisions contained herein.

DATED at Toronto, Ontario this \_\_\_\_ day of \_\_\_\_\_, 2024.

**KSV RESTRUCTURING INC., in its capacity  
Court-appointed receiver of La Pue Internatic  
Inc., and not in its personal or corpo  
capacity and without personal or corpo  
liability**

Per: \_\_\_\_\_  
Name: Noah Goldstein  
Title: Authorized Signing Officer

I have authority to bind the Corporation.



**SCHEDULE "A"**  
**ASSUMED AGREEMENTS OF PURCHASE AND SALE**

**SCHEDULE "B"**  
**THE LANDS**

The lands and premises municipally known as 5528 Ferry Street, Niagara Falls, Ontario and legally described in PIN 64349-0258 (LT).



**SCHEDULE "C"**  
**THE PERMITTED ENCUMBRANCES [Draft Note: Confirm]**

1. any registered reservations, restrictions, rights of way, easements or covenants that run with the Lands;
2. any registered agreements with a municipality or a supplier of utility service including, without limitation, electricity, water, sewage, gas, telephone or cable television or other telecommunication service;
3. all Applicable Laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Lands;
4. any minor easements for the supply of utility service to the Lands or adjacent properties;
5. encroachments disclosed by any errors or omissions in existing surveys of the Lands or neighbouring properties and any title defect, encroachment or breach of a zoning or building by-laws or any other Applicable Law, by-laws or regulations which might be disclosed by a more up-to-date survey of the land and survey matters generally;
6. the exceptions and qualifications set forth in the *Land Titles Act* (Ontario);
7. the reservations contained in the original grant from the Crown;
8. liens for taxes if such taxes are not due and payable;
9. Instrument No. SN613492, registered on December 12, 2019, being an application to consolidate;
10. Instrument No. SN629148, registered on May 14, 2020, being a notice of agreement between the Debtor and the Corporation of the City of Niagara Falls;
11. Instrument No. SN642462, registered on September 18, 2020, being a notice of site plan agreement between the Debtor and the Corporation of the City of Niagara Falls;
12. Plan 59R-16793, registered on October 1, 2020, being a reference plan;
13. Instrument No. SN666113, registered on March 22, 2021, being By-Law 2020-04 from the Corporation of the City of Niagara Falls;
14. Instrument No. SN666891, registered on March 26, 2021, being a notice from the Corporation of the City of Niagara Falls;
15. Plan 59R-17206, registered on March 11, 2022, being a reference plan;
16. Instrument No. SN716940, registered on March 11, 2022, being an application for absolute title;
17. Instrument No. SN721529, registered on April 12, 2022, being an application (general) from the Corporation of the City of Niagara Falls;
18. Instrument No. SN721530, registered on April 12, 2022, being an application (general) from the Corporation of the City of Niagara Falls;
19. Instrument No. SN721531, registered on April 12, 2022, being an application (general) from the Corporation of the City of Niagara Falls;

20. Instrument No. SN723231, registered on April 26, 2022, being a notice from the Corporation of the City of Niagara Falls;
21. Plan 59R-17292, registered on June 13, 2022, being a reference plan;
22. Instrument No. SN754703, registered on January 13, 2023, being a transfer easement from the Debtor to Anastasia Georgina Loukas and 2779006 Ontario Inc.;
23. Instrument No. SN754853, registered on January 16, 2023, being a land registrar's order from the Niagara South Land Registry Office; and
24. Instrument No. SN763208, registered on April 17, 2023, being a notice from Anastasia Georgina Loukas, 2779006 Ontario Inc. and the Debtor.

**SCHEDULE "D"**  
**ASSUMED CONTRACTS**

**[Draft Note: Confirm]**

# APPENDIX K

---

**From:** Noah Goldstein <ngoldstein@ksvadvisory.com>  
**Sent:** November 3, 2024 5:49 PM  
**To:** Howard Manis  
**Cc:** Pawel Fugiel; Maya Poliak; Harvey G. Chaiton; Lynda Christodoulou  
**Subject:** Re: New offer attached\_5528 Ferry St. Niagara Falls \$20,500,000  
**Attachments:** image001.png

**CAUTION:** [External]

Howard, I've had a bad experience with this lender before. They didn't close a deal despite many assurances. Please let us know if it goes firm. In the interim, we will continue to market property.  
Noah Goldstein  
416.844.4842

On Nov 3, 2024, at 5:44 PM, Howard Manis <hmanis@manislaw.ca> wrote:

All,

Please find attached the proof of financing that our client referred to in his email of last night.

We expect that the lender will complete its due diligence and provide a firm Commitment in 14 days or so.

Please let us know if you have any questions or comments.

Howard

<image001.png>

This e-mail and its attachments ("Communication") is solely for the use of the intended recipient(s). It may contain confidential information, personal information protected under privacy laws, and be subject to solicitor-client privilege and/or attorney-client privilege. If you are not an intended recipient, any copying, use, disclosure, or distribution of this Communication is prohibited. If you receive this Communication in error, please notify the sender immediately by reply e-mail, delete the original transmission, and destroy all copies.

---

**From:** Pawel Fugiel <lapueinternational@gmail.com>  
**Sent:** November 2, 2024 8:19 PM  
**To:** Maya Poliak <Maya@chaitons.com>; Noah Goldstein <ngoldstein@ksvadvisory.com>; Howard Manis <hmanis@manislaw.ca>; Harvey G. Chaiton <Harvey@chaitons.com>; Lynda Christodoulou <LyndaC@chaitons.com>  
**Subject:** New offer attached\_5528 Ferry St. Niagara Falls \$20,500,000

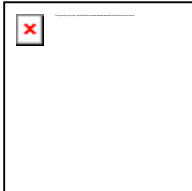
Hi Maya, Noah,

Please see the new increased offer attached below.

Yesterday afternoon, I received documents verifying and confirming financing, which I shared with Howard for his review. We will be able to provide proof of financing tomorrow or Monday.

Thank you,

**Pawel Fugiel**  
**C.E.O**



**La Pue International Inc.**  
6158 Allendale Ave | Niagara Falls | ON | L2G 0A5 | Canada  
Direct: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

<Signed. MGF TERM SHEET 2024 - LaPue International Inc. CA - November 3, 2024.pdf>

# APPENDIX L

---

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**Sent:** November 3, 2024 5:49 PM  
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Howard

<image001.png>

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**Sent:** November 2, 2024 8:19 PM  
**To:** Maya Poliak <Maya@chaitons.com>; Noah Goldstein <ngoldstein@ksvadvisory.com>; Howard Manis <hmanis@manislaw.ca>; Harvey G. Chaiton <Harvey@chaitons.com>; Lynda Christodoulou <LyndaC@chaitons.com>  
**Subject:** New offer attached\_5528 Ferry St. Niagara Falls \$20,500,000

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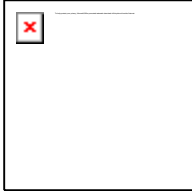


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**C.E.O**



**La Pue International Inc.**  
6158 Allendale Ave | Niagara Falls | ON | L2G 0A5 | Canada  
Direct: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

<Signed. MGF TERM SHEET 2024 - LaPue International Inc. CA - November 3, 2024.pdf>

# APPENDIX M

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**From:** Maya Poliak <Maya@chaitons.com>  
**Sent:** November 25, 2024 12:12 PM  
**To:** Pawel Fugiel  
**Cc:** Howard Manis; Noah Goldstein  
**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Pawel,

As our office has previously advised you and your legal counsel, your offer was not considered until we received evidence that you or your lender had the financial ability to fund your proposed transaction. We also advised you and your legal counsel on November 15, 2024 that the Receiver was reviewing another offer and that it was not prepared to await for receipt of your information. We did not receive evidence of financing from you to support your offer. As such, the Receiver entered into another transaction.

---

**Maya Poliak** | Partner  
Chaitons LLP | T: 416.218.1161

---

**From:** Pawel Fugiel <lapueinternational@gmail.com>  
**Sent:** Friday, November 22, 2024 9:16 PM  
**To:** Maya Poliak <Maya@chaitons.com>  
**Cc:** Howard Manis <hmanis@manislaw.ca>; Noah Goldstein <ngoldstein@ksvadvisory.com>  
**Subject:** Re: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

CAUTION: [External]

Maya

When the receiver entered into a sale transaction, today?

What was the reason my offer was rejected ?

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Fri, Nov 22, 2024 at 12:53 PM Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)> wrote:

Howard,

The Receiver has now entered into a transaction for the sale of the Property. We are in the process of canvassing dates with the Court. Please advise if your client intends to oppose the sale and if there are dates that you are not available to attend a hearing in the month of December.

---

**Maya Poliak** | Partner  
Chaitons LLP | T: 416.218.1161

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** Friday, November 22, 2024 11:13 AM  
**To:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: FW: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

CAUTION: [External]

Noah and Maya,

Please confirm today that our client's Offer is acceptable to the Receiver as the lender has insisted upon that before providing confirmation of funds as it does not wish to do so without assurance that there would be a firm transaction.

We await hearing from you today.

Howard



**Howard F. Manis**

**MANIS LAW**

• Bankruptcy & Insolvency • Commercial

(416) 417-7257

[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)

[www.ManisLaw.ca](http://www.ManisLaw.ca)

 2300 Yonge Street, Suite 1600, Toronto

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**From:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Sent:** November 21, 2024 3:44 PM

**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>

**Cc:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

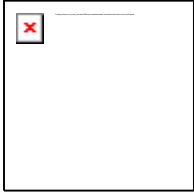
**Subject:** Re: FW: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

Hi Noah,

I noticed that Howard forgot to send the updated commitment with his email, outlining the conditions that have been satisfied, and ready to move forward with the new lender.

Thank you,

**Pawel Fugiel**  
**C.E.O**



**La Pue International Inc.**

[6158 Allendale Ave | Niagara Falls | ON | L2G 0A5 | Canada](#)

Direct: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Thu, Nov 21, 2024 at 2:56 PM Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)> wrote:

Good afternoon,

Please see the email exchange below as we expect to have what you need by the end of the day tomorrow assuming all goes as expected.

Howard



**Howard F. Manis**

**MANIS LAW**

• Bankruptcy & Insolvency • Commercial

(416) 417-7257

[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)

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 2300 Yonge Street, Suite 1600, Toronto

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**From:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Sent:** November 21, 2024 11:31 AM

**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>

**Subject:** Re: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

Please share this with the receiver , we almost there!

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.

C: 647.705.9810

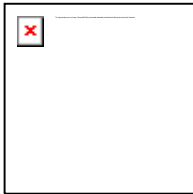
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Thu, Nov 21, 2024 at 10:07 AM Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)> wrote:

Howard, Please see response from Albert below and commitment signed and attached. Most of the conditions are waived.

**Thank you,**

**Pawel Fugiel**  
**C.E.O**



**La Pue International Inc.**  
[6158 Allendale Ave | Niagara Falls | ON | L2G 0A5 | Canada](#)  
Direct: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

----- Forwarded message -----

From: **Albert Guido** <[aguido@fiducia.ca](mailto:aguido@fiducia.ca)>

Date: Wed, Nov 20, 2024 at 6:36 PM

Subject: Fwd: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

To: Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

Thank you Pawel, for providing the executed engagement letter this afternoon.

Our lawyer will proceed to send the updated commitment tomorrow, outlining the conditions that have been satisfied and confirming proof of funds availability for the proposed loan.



I will also follow up tonight with the signed engagement letter and details regarding the work fee payment.

Thank you,  
Albert

|||

# APPENDIX N

**MORTGAGE COMMITMENT**  
PRIVATE AND CONFIDENTIAL

November 15, 2024

La Pue International Inc.  
Mr. Pawel Fugiel  
6158 Allendale Avenue  
Niagara Falls ON

Re: 1<sup>st</sup> Mortgage Financing on the property located at 5528 Ferry Street Niagara Falls ON, Site Plan Approved with permits issued for the construction of 435 residential condominium units in a 30 storey building (legally described PIN: 6439-0258 FIRSTLY: LOTS 46, 51, 52, 61, 62, 63, 64 & 65, PLAN 273 & PART LOTS 43, 44, 45, 47, 48, 49 & 50, PLAN 273, VILLAGE OF NIAGARA FALLS, PARTS 1 & 3 PLAN 59R17206; SECONDLY: SURFACE RIGHTS ONLY (AS IN RO718049), PART LOTS 47, 48, 49 & 50 PLAN 273, VILLAGE OF NIAGARA FALLS, PART 2 PLAN 59R17206 CITY OF NIAGARA FALLS (the "Subject Property") (Collectively the "**Property**")

Commitment Acceptance Date:

---

Based upon and subject to the accuracy of information furnished to us, we are pleased to provide you, **La Pue International Inc. (the "Borrower")** the following conditional mortgage commitment (the "Commitment") for the property described below (the "Subject Property") subject to the terms (the "Terms") set out in this Commitment and subject to you satisfying all the conditions (the "Conditions") described in this Commitment, in a timely manner so that the Lender can expedite the advance on or before the Funding Date.

In all matters, time shall be of the essence. We require your executed acceptance of this Commitment by the Commitment Acceptance Date set out herein or this Commitment may be cancelled by the Lender. Furthermore, this Commitment, when accepted, will expire on the Funding Date, and may be cancelled, modified, or extended by the Lender at its sole discretion. Your acceptance of this Commitment will be your undertaking to pay all costs listed below together with all legal costs and fees incurred, whether this Charge/Mortgage is advanced. The Non-Refundable Deposit set out herein will be forfeited as liquidated damages and not as a penalty.

**Loan Amount:** The lesser of: (i) up to **\$22,000,000** or (ii) 60% of the satisfactory lender assessed "As Is" current Value for the subject Property including all existing mortgages (the "Loan" or "Loan Facility").

**Interest Rate:** The higher of (i) **12.50%** or (ii) Royal Bank Prime + 6.55% per annum calculated monthly with no deemed re-investment of monthly payments on the principal outstanding during the first 3 months after the interest adjustment date.

**Amortization:** Interest Only

**Term:** Subject to the terms of the mortgage commitment, the period (the "Term") shall commence on the Closing Date and terminate 7 months from the Interest Adjustment Date.

*The borrower has the privilege to extend the mortgage for an additional three months, provided that the mortgage remains current and has never previously been in default. If an extension agreement has not been executed 30 days prior to maturity of the mortgage, Interest for the final month of the term shall be at an interest rate equal to the higher of (i) 18.00% or (ii) Royal Bank Prime + 12% per annum calculated monthly with no deemed re-investment of monthly payments on the principal outstanding until the principal amount of the charge is discharged in full.*

**Guarantor:** 100% Guarantees from all shareholders of the Borrower as well as the following Guarantors on a joint and several basis.

Pawel Fugiel  
Guarantees to be satisfactory to the Lender in its sole and absolute discretion.

**Repayment:** Interest Only. Payable monthly on the 1<sup>st</sup> day of the month and compounded monthly from the full interest reserve.

**Interest Adjustment Date:** The 1<sup>st</sup> day of the month following the first advance.

**Closing Date:** The initial advance of funds shall be determined upon waiver of conditions and requirements has been provided by the Lender. The estimated advance date shall be on or before **January 15<sup>th</sup>, 2025 (the "Closing Date")**. If the date of the advance is more than 3 business days past the aforesaid date, this commitment will be at the Lender's option, null and void and if the initial advance is more than 3 business days beyond the date specified, the new rate and any costs attributable thereto, will be subject to the then current market terms and conditions as at that date. The Closing Date may be amended to a later date at the sole discretion of the Lender.

**Prepayment Privileges:** The Loan is closed for repayment until the last day of the 6<sup>th</sup> month of the Term.

**Purpose:** To provide funds for the payout of the existing 1<sup>st</sup> mortgage as described in the Use of Funds attached herein, provide an interest reserve, and funding for Lender Fees, Broker Fees, Expenses, and legal fees. See Schedule attached herein and incorporated here by reference and forming an integral part of this Commitment Letter.

**Security:** The following security for the loan shall be granted in favor of the Lender, in form and content satisfactory to the Lender and its legal counsel (hereinafter collectively referred to as the "Security")

1. A first charge (the "Charge") from the Borrower to be registered against title to the Property.
2. A direction and beneficial charge agreement granted by the Beneficial Owners, if applicable.
3. A General Security Agreement from the Borrower and Guarantor in a form satisfactory to the lender's solicitor.
4. A General Security Agreement on all movable property used in connection or arising from the Property.
5. General Assignment of Rents and Leases with specific assignment of leases as determined by the Lender.
6. Guarantee and postponement of claim from all Guarantors.
7. Pledge of each of all the shares in the capital of the Borrower.
8. An assignment of all municipal approvals and agreements, contracts, project letters of credit and all architectural and mechanical drawings.
9. Assignment and Postponement of Claim from i) all shareholders of the corporate Borrower, and ii) all related party debt holders of the corporate Borrower.
10. A statutory declaration of the Borrower in respect of the Construction Act (Ontario) and other matters relating to the Property.
11. A covenant of the Borrower and Guarantors regarding environmental matters.
12. Such further and other security as legal counsel for the Lender may reasonably require. Documentation, resolutions, legal opinions, and certificates as required by the Lender shall be in a form required by the Lender and its legal counsel, acting reasonably.

**Mortgage Fee:** A Mortgage Fee equal to 4% of the total mortgage amount shall be paid to the Lender and Broker for the Lender (the "Mortgage Fee").

One percent (1%) of the loan amount shall be paid as a Commitment Fee upon execution of this Mortgage Commitment (the "Commitment Fee Deposit"). The Commitment Fee Deposit is deemed earned upon acceptance of this Commitment and shall be applied as a credit towards the Mortgage Fee. The Commitment Fee shall be forfeited if the Mortgage is not advanced due to any cause whatsoever save and except for default of the Lender.

The Borrower shall be responsible for all fees, expenses, and funding requirements and a balance of the Mortgage Fee shall be payable from the closing proceeds on the closing date. The Lender Fee is deemed earned upon acceptance and execution of this Commitment. Any additional fees or costs payable to any other entity shall be for the account of the Borrower. The Mortgagor authorizes the payment of the lender and broker fee to be deducted from the funds when advanced. Borrower shall be responsible for Lender's legal fees and disbursements and all 3<sup>rd</sup> party costs. The Borrower hereby agrees to pay the reasonable legal fees required by the Lender's Solicitors for the completion of the legal services related to this Mortgage.

**Confidentiality:** No terms of this letter may be disclosed to any third party without the prior written consent of the lender and the borrower.

## Conditions

**Precedent:** Prior to the Date of Advance, the Borrower for the Loan shall comply with and / or satisfy the following conditions precedent and all other conditions precedent set out elsewhere herein or in a previous Loan Proposal, all to the satisfaction of the Lender, in its sole and unfettered discretion.

- a) **Encumbrances:** There shall be no encumbrances registered on the Property, save and except those allowed by the Lender. The Borrower shall agree to a Section 118 notice being registered on title restricting any subsequent registrations without consent of the Lender.
- b) **Appraisal:** The Lender shall receive a satisfactory appraisal for the Property or a peer review of a recent appraisal report of the Property confirming the current as is value for the Property considering the current status of the project and hard costs paid to date. The total loan(s) shall not exceed 60% of the lender assessed value for the subject Property. An appraisal is to be prepared by a Bona Fide appraiser approved by the Lender to support the assessed value. The report shall be addressed to the Lender and or its assigns and lender clients, or if acceptable to the Lender, a Reliance Letter provided by the appraiser. The appraisal shall also include an AS-IF COMPLETE that supports the approval a Construction Loan for the Property, satisfactory to the Lender.
- c) **Environmental and Soil Reports:** Satisfactory Environmental Assessment and Geotechnical reports for the Property with quantum of any potential Remediation costs fully disclosed and supported with Reliance Letters addressed to the Lender.
- d) **Mortgage and Financial Forms:** The Borrower and Guarantors delivering completed and signed current Mortgage Application, Net Worth Statement and Background Check Consent Form on such forms as reasonably required by the Lender. The borrower and guarantors shall provide financial and supporting information as the lender may require, including Financial Statements and cash flow statement satisfactory to the lender.
- e) **Cash Flow:** The Borrower is required to provide evidence demonstrating its capability to cover all project expenses and mortgage interest payments, subject to the satisfaction of the Lender.
- f) **Development Budget:** Receipt of a Preliminary Budget (the "Budget") prepared by the Borrower's consultant confirming the reasonableness of the current overall budget, and that the Borrower's overall equity used in the Project is sufficient.
- g) **Project Financing:** Confirmation of construction financing for the project (referred to as the "Construction Loan") by a lender approved by the Lender with terms satisfactory to the Lender.
- h) **Confirmation of Costs to Date and Cash Equity:** The Borrower will deliver evidence of cost to date and evidence of the \$20,000,000 in invested capital paid into the project to date by the Borrower, satisfactory to the Lender.
- i) **Property Taxes and Other Charges:** Confirmation Property Taxes, Levies, Fees, Local Improvement Charges, and Other Charges that are due and payable in connection with the subject Property have been paid.
- j) **Insurance Review:** The Lender shall engage, at the Borrower's expense, the services of a 3<sup>rd</sup> party Insurance Consultant to conduct a review of the Insurance Policy for the subject Property to ensure sufficient coverage is provided for the proposed financing inclusive of construction.
- k) **Ownership:** Details of ownership and (corporate) structure including all beneficial owners and shareholders.
- l) **Third Party Contracts and Reciprocal Agreements:** Receipt and review of all third-party contracts, invoices, payables, and reciprocal agreements.
- m) **Drawings/Renderings/Studies/Marketing Materials:** The Borrower to provide all studies and reports for the project, drawings, renderings, and marketing material detailing the development.

- n) **Zoning & Site Plan Approval:** Satisfactory confirmation of the requirements under the approved ZBA & SPA with evidence that the SPA is fully endorsed with a timeline for issuance of construction permits satisfactory to the Lender.
- o) **Condominium:** Copy of the Condominium Documents provided to the purchasers.
- p) **Pre-Sales:** Confirmation of 350 firm residential unit sales totaling \$250,000,000 in sales with copies of the Purchase and Sale Agreements and reconciliation of the purchaser's deposits totaling \$44,000,000 in in Trust, satisfactory to the Lender.
- q) **HCRA/Tarion:** Evidence of HCRA and Tarion for the project, Borrower, and the builder, satisfactory to the Lender.
- r) **Use of Funds:** Confirmation of Use of Funds. The Borrower shall provide current payout/information statements for the current 1<sup>st</sup> Mortgage, and all other project costs and disbursements to be paid, satisfactory to the lender.
- s) **Liens:** The Property is to be free and clear of any liens except those approved by the Lender.
- t) **Title Search:** The Lender's legal counsel confirming clear title.
- u) **Marketability and Risk Assessment.** Satisfactory review by the Lender of the risk assessment and marketability of the project in its sole discretion.
- v) **Other Documents:** Any other documentation realized or required during the due diligence process of underwriting the loan and listed in Schedule B herein.

#### **Representations and Covenants:**

- a) The Borrower shall be the legal and beneficial owner of a good and marketable freehold title to the Property and all personal property associated therewith. The Property and the personal property related thereto or used in connection with the operation thereof or which is necessary to the use and operation thereof, shall be free and clear of all security interests, charges, liens, mortgages, claims or other encumbrances and the Security provided for in this offer, to the complete satisfaction of the Lender.
- b) All taxes, assessments, duties and other levies and charges affecting the Property, other than amounts which are not yet due and payable, shall have been paid prior to each advance of the Loan, failing which they shall be paid from the proceeds of any advance.
- c) The Borrower shall provide to the appropriate taxation, municipal and other authorities an authorization by which the Lender or any person authorized by its legal counsel, agent or manager, shall be able to obtain, in the name of the Borrower, a confirmation from such authorities that all payments, declarations and other filings of the Borrower are up to date, whether authorities concerned have issued any or will issue any such notice concerning arrears. This authorization shall be in effect until the loan has been fully paid.
- d) Each of the Borrower and the Beneficial Owners represents and warrants to the Lender as follows, where applicable, and acknowledge and confirm that the Lender is relying upon such representations and warranties:
- e) The Borrower and each of the Beneficial Owners is a validly subsisting corporation in good standing in its jurisdiction and is duly qualified to carry on business in Ontario.
- f) Power and Authority. The Borrower has the power, authority and right (a) to enter and deliver, and to exercise its rights and perform its obligations under, the Loan Documents to which it is a party and all other instruments and agreements delivered by it pursuant to any of the Loan Documents, and (b) to own the Project Lands and carry on its business as currently conducted and as currently proposed to be conducted by it.

- g) Execution, Delivery, Performance and Enforceability of Loan Documents. The execution, delivery and performance of each of the Loan Documents to which the Borrower is a party, and every other instrument or agreement delivered by it pursuant to any Loan Document, has been duly authorized by all actions, and each of such documents has been duly executed and delivered and constitutes a valid and legally binding obligation of the Borrower enforceable against it in accordance with its terms subject to bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application limiting the enforcement of creditors' rights generally and to general equitable principles.
- h) The Borrower shall deliver the following: all title deeds, copies of all contracts affecting or relating to the property, required insurance policies, evidence of tax accounts and its status, certified copies of the Borrower's borrowing by-laws and resolutions authorizing this transaction, certified copies of Articles of Incorporations, certificate of incorporation, status of compliance of the Borrower, an original up to date survey acceptable to the Lender, and any other documents as may be reasonably required by the Lender's counsel.
- i) All security and documentation related to this Loan as required by the Lender shall have been received and reviewed to the complete satisfaction of the Lender and all other approvals required by the Lender shall have been given and satisfied.
- j) If at any time before or after the advance, there is or has been any material discrepancy or inaccuracy in any written information, statements, or representations therefore made or furnished by or on behalf of the borrower, then the lender shall be entitled forthwith to cancel the lender's obligations hereunder or declare any monies therefore advanced with interest to be forthwith due and payable and retain all fees provided by the borrower.
- k) Fiducia Ventures Inc., & CDS Financial Group Inc. (the "Lender") may participate or assign the loan at its discretion. The Borrower acknowledges that the lender is syndicating all or a portion of the loan and will utilize the services of a Mortgage Administrator on terms and all terms are conditional on successful completion of the syndication failing which this commitment shall be null and void. The Lender and its Lawyer shall be satisfied with the title to the Property in their sole and unfettered discretion.
- l) No Breach or Event of Breach will have occurred and be continuing the initial Funding Date or would result from making the requested advance.
- m) The lender has been satisfied with the feasibility of the Borrower's representations as it relates to the purpose and uses of funds as proposed herein.
- n) The Borrower is not now and will not be at the Date of Advance a non-resident of Canada within the meaning of the Income Tax Act (Canada).



The following requirements have been met to the Lender's satisfaction, prior to any advances:

**Security in Place:** All security being in place in form and content satisfactory to the Lender, the Borrower and its solicitors acting reasonably.

**Execution of Documents:** The Borrower, if any, executing all documents necessary to give effect to the Mortgage and further including but not limited to the mortgage agreement, which shall contain *inter alia* the provisions, set out in Schedule "A".

**Title:** The Lender being satisfied with the title to the properties and obtaining at the Borrower's expense a satisfactory Title Insurance Policy for the Mortgage.

**Work Orders etc.:** The Lender obtaining satisfactory evidence that there are no outstanding work orders or notices of violations from any governmental departments affecting the Property.

**Fire:** If required, the Borrower providing the Lender with satisfactory evidence that the Property has no infractions outstanding on file under the appropriate Fire Code. The Lender may be willing to accept coverage by way of satisfactory title insurance in place.

**Costs Borne by the Borrower:** The Borrower paying for all costs incurred by either the Borrower or the Lender including legal, appraisal, insurance consulting as well as other costs that arise in relation to the Loan.

**Insurance:** Receipt by the Lender of evidence that proper and adequate insurance is in place. The Borrower's risk advisor to review and ensure policy complies. The Borrower shall maintain public liability insurance to such amounts of not less than \$5,000,000 on a per-occurrence basis. The Insurer or Insurers shall sign each policy of insurance and the policy shall contain a clause showing loss payable the mortgagees as their interest may appear in the first instance. Each policy of insurance shall show loss payable to the mortgagees as their interest may appear. All insurance policies shall be in form and scope satisfactory to the Lender and its solicitors and the premiums on it shall be paid for a period of not less than six months. A third-party consultant shall review and approve the policies to their sole satisfaction at the Borrower's cost.

**Financing Potential.** The Lender being satisfied in its sole and entire discretion that the market conditions at Closing will be favourable towards refinancing of the Loan.

**Material Change:** It is a condition for disbursement of funds that in the Lender's opinion the financial position of the Borrower, and any of the property given as security, and the Borrower's representations and warranties, shall not have suffered any adverse change; nor shall there be any action, suits, or pending proceedings of which the Borrower has knowledge except as otherwise disclosed to the Lender; and that no event shall have occurred, which materially and adversely affects the whole or part of the value of the property or the financial position of the Borrower. No change in the ownership of the Property is permitted without the consent of the Lender, such consent may be unreasonably withheld.

**Non-Merger:** The Borrower's obligations contained in this Commitment shall survive the execution and registration of the Mortgage and any other security documentation and all advances of funds under the Mortgage, and the Borrower agrees that those obligations shall not merge in the execution and registration of the Mortgage and other security. All terms and conditions of our Mortgage and other security documentation shall form part of this Commitment.

**Lender's Solicitor:** The Lender being satisfied with the Lender's Solicitor's opinion on title, security and the validity, legality, and binding effect of all aspects of this Mortgage transaction. The Borrower agrees that the Lender's solicitors shall prepare all mortgage and other documents related to this Mortgage for review and approval by the Borrower and his solicitor, such approval not to be unreasonably withheld.

**Identification:** Pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the "Act"), the Lender is required to ask for identification of the Borrower and for information with respect to the source of funds, used in connection with the Borrower's equity in the Property. The Borrower hereby covenants and agrees to provide prior to the first advance, such identification and information as may be reasonably required to ensure the Lender's compliance with the Act.

**Information:** The Borrower and Guarantors authorize the Lender to request, on their behalf, at any time or from time to time, information regarding any prior or other encumbrance affecting the Property, or any other real or personal property of the Borrower or the Guarantors, including (without limitation) statements regarding any such encumbrance affecting the property or any property. Authorize the Lender to provide to any other party with an interest in any property of the Borrower or the Guarantors, or any assignee or potential assignee of the Charge information regarding the Loan and/or the Security, including (without limitation) a statement of indebtedness for the Loan.

**Cancellation:** The Lender shall have the right to terminate and cancel its agreement to provide the mortgage to the Borrower and shall be relieved of all obligations in connection therewith if the Borrower fails or is unable or unwilling to comply with the terms and conditions of this Commitment letter on or before the Closing Date including failing or refusing to execute documentation requested by the Lender or accepting the funds when advanced.

In the event the Loan is not advanced, and the Commitment is terminated, through no fault of the Lender, the Deposit shall not be refundable to the Borrower and may be retained by the Lender as liquidated damages, unless if caused by the default of the Lender. In addition, no termination of this Commitment shall limit or restrict or otherwise affect in any way: (i) the obligations of the Borrower to pay to the Lender any third-party fees, costs, and expenses in connection with the Loan; and (ii) any rights and remedies of the Lender against the Borrower arising from any breach of the Commitment by the Borrower including any claim for damages.

It is understood that the Lender has entered into this Commitment based on representations made by the Borrower and, if at any time there is or has been any material discrepancy or inaccuracy in any written or oral information, statements or representations heretofore or hereafter made or furnished to the Lender by or on behalf of the Borrower concerning the security or the Borrower's financial condition, then the Lender shall be entitled in its sole discretion to withdraw or cancel any obligation hereunder and decline to advance funds and in addition to forfeiture of the Deposit.

This Commitment shall be binding on the Borrower and Guarantors, and their successors and assigns. Where this Commitment has been executed by more than one person as Borrower or a Guarantor, the liability of the persons executing this Commitment as Borrower, or a Guarantor is joint and several and every reference in this Commitment to the "Borrower" or a "Guarantor" shall be construed as meaning each person who has executed it as well as all of them.

No term or condition of this Commitment or any of the Security may be waived or varied orally or by any course of conduct of the Lender. Any amendment to this Commitment or the Security must be in writing and signed by the Lender.

No waiver by the Lender of its rights or remedies hereunder shall be considered a waiver of any other or subsequent right of or remedy of the Lender, no delay or omission in the exercise or enforcement by the Lender of any right or remedy of the Lender and no exercise or the enforcement of such right or remedy shall be held to exhaust any right or remedy of the Lender. The Borrower and Guarantors acknowledge and agree that the Lender shall have the right to sell, transfer, assign or syndicate its rights under this Commitment and/or the Loan or any part thereof to any person, persons, corporation, corporations, or trust without further notice to, or the consent of, the Borrower and any reference to the Lender herein shall include its successors and assigns.

This Commitment is open for acceptance by the Borrower until end of day November 15<sup>th</sup>, 2024, by which time and date a copy of this Commitment duly executed the Borrower shall be delivered to the Lender together with any payment required hereunder. If this Commitment is not accepted by the aforementioned time and date, it will, at the option of the Lender, become null and void and of no force and effect.

Yours very truly,



Fiducia Ventures Inc, c/o  
CDS Financial Group Inc.  
(the "Lender")

Solicitor for the Lender:

**Simon Ashby**

*Sociétaire Sénior | Senior Associate*

**KRB Avocats | Lawyers**

100-310 Miwate Private | Ottawa (Ontario) K1R 0E2

T: (613) 704-3354 | F: (514) 221-2319

[s.ashby@krblaw.ca](mailto:s.ashby@krblaw.ca)

[www.krblaw.ca](http://www.krblaw.ca)

**BORROWER ACCEPTANCE**

The Borrower accept the foregoing and agree to comply with all the terms and conditions of this Commitment and acknowledge that they have reviewed this commitment by executing where indicated below, initialing each page, and returning the same by no later than the November 15, 2024, after which this letter becomes void and may not be accepted without the further written concurrence of the mortgagee.

We acknowledge and accept the above-mentioned terms and conditions on this:

15th day of November, 2024.

**BORROWER: La Pue International Inc.**

  
Name: \_\_\_\_\_

I have authority to bind the Corporation

**GUARANTOR ACCEPTANCE**

The Guarantor accepts the foregoing and agree to comply with all the terms and conditions of this Commitment and acknowledge that they have reviewed this commitment by executing where indicated below, initialing each page, and returning the same by no later than the November 15<sup>th</sup>, 2024, after which this letter becomes void and may not be accepted without the further written concurrence of the mortgagee.

  
\_\_\_\_\_  
Guarantor: *Pawel Fugiel*

SCHEDULE "A"

Source and Use of Funds (Estimated)

<b>Internal Estimate for Sources and Uses - Not for 3rd Party Reliance</b>			
<b>Estimate Sources</b>		<b>Estimated Uses</b>	
Loan	\$22,000,000	Refinance	\$20,000,000
		Interest Reserve to RAD (3 months)	\$1,375,000
		Est. Interest Adjustment Pmt ( days)	\$0
		Mortgage Lender / Origination Fee	\$880,000
		Estimated Legals & Reports	\$50,000
Borrower Cash or Funding / Credits	\$305,000		
<b>TOTAL</b>	<b>\$22,305,000</b>		<b>\$22,305,000</b>

*Subject to the Lender's Approval*

## **SCHEDULE "C:**

### **MORTGAGE CHARGE TERMS**

Cancellation/Termination of This Mortgage Commitment:

This Commitment shall expire unless funds are advanced by the Advance Date. The Lender, may however, in their sole discretion, extend the Advance Date and, unless otherwise agreed by the Lender, any such extension shall be in writing. In addition to the rights of cancellation/termination provided in other sections of this Mortgage Commitment,

A) this Mortgage Commitment will be automatically cancelled if the Lender determines, acting in their sole discretion, that there has been a deterioration in the Borrower(s) creditworthiness between the date of this Mortgage Commitment and the Advance Date,

B) the lender may also, in their sole discretion, change or cancel this Mortgage Commitment in the following circumstances:

- i) if the Lender has not received the Borrower(s) signed acceptance of this Mortgage Commitment by the Sign Back Deadline;
- ii) if the Lender determines that there has been a material misrepresentation of fact contained in the Borrower(s) application, this Mortgage Commitment or any other documentation provided by the borrower(s) and their agents.
- iii) If the Lender determines that there has been a material change to the Borrower(s) financial status;
- iv) If the Borrower(s) are unable to satisfy any of the Commitment Conditions no less than five (5) business days prior to the Advance Date or the Funding Conditions no less than one (1) business day prior to the Advance date, or
- v) If the Principal Amount to be advanced is not advanced by the Advance Date.

In the event that the Lender cancels this Mortgage Commitment, the Borrower(s) acknowledge(s) that the Lender shall be entitled to retain any Commitment Fee they have collected that the Lender will be under no obligation to advance any monies to the Borrower(s). The Borrowers acknowledge they still be responsible for lender's lawyer's legal fee and disbursements.

### **"SCHEDULE OF FEES"**

(This Schedule of Fees is attached to, and forms part of the Mortgage Commitment)

THE AMOUNT LISTED IN THIS SCHEDULE SUPERSEDE ANY AMOUNTS THAT MAY BE CONTAINED IN THE CHARGE OR STANDARD CHARGE TERMS. NOTWITHSTANDING anything to the contrary contained in the Standard Charge Terms (and in the event of any contradiction the following provisions shall prevail), the Borrower(s) covenants and agrees with the Lender as follows:

**Mortgage Renewal, Extension and Holding Over:**

The borrower shall pay the mortgage full amount including all charges and fees by Maturity date, otherwise mortgage will be considered in default. In the event that the mortgage loan is not repaid upon maturity, unless the Lender has received at least thirty (30) days' notice and has agreed to an extension or renewal or holding over agreement in writing the interest rate on the mortgage loan shall continue as written and agreed in the mortgage commitment terms, compounded and calculated monthly with no deemed re-investment of monthly payments on the principal outstanding until the total amount of the charge is discharged in full.

The Lender, notwithstanding anything herein before provided, upon the Maturity Date of the Charge, shall be entitled to enter into an agreement with the Borrower to extend the Maturity Date, amend the interest rate or any of the other terms of this Charge without the requirement to obtain the postponement of any subsequent encumbrancer to such amendments and any subsequent encumbrancers shall take title to their security subject to this provision and be subordinated to such amendments.

If the Loan is not repaid in full on or before the Maturity Date, the Borrower shall be required to pay the Lender a Holding Over Interest Bonus, in addition to any and all other rates, fees, and costs to be paid to the Lender by the Borrower pursuant to this Commitment Letter. More particularly, this interest bonus shall be earned by and payable to the Lender monthly, in advance, on the first business day of each month and shall be payable at the rate equal to the higher of (i) 18.00% or (ii) Royal Bank Prime + 10.8% per annum calculated monthly (the "Holding Over Interest Bonus") with no deemed re-investment of monthly payments on the principal outstanding until the Mortgage is discharged in full. The Borrower hereby acknowledges that the requirement to pay the Holding Over Interest Bonus does not constitute an extension of the Loan nor is it a penalty or fee but rather additional interest to be added to the final discharge amount of the Loan. If the Loan is not repaid in full by the Maturity Date, the same shall constitute default by the Borrower under the Commitment and Security Documents notwithstanding payment of the Holding Over Interest Bonus. The Borrower further acknowledges that the Lender, at its option, may add the Holding Over Interest Bonus to the outstanding principal balance of the Loan and the Security for the Loan also secures the Holding Over Interest Bonus.

**Mortgage Statement Fee:**

The Borrower(s) shall pay to the Lender's lawyer Mortgage Statement Fee of (\$450.00), for each occurrence, that the Lender is required to prepare a mortgage statement. (This does not include nor form part of any legal fees which are to be charged for the preparation and discharge of the mortgage. Further, the Borrower(s) are responsible for any and all legal fees due and payable to the Lender's solicitor in relation to the mortgage loan).

**Mortgage/ Administrative Preparation Fee:**

The Borrower(s) shall pay to the Lender Discharge Preparation Fee of (\$450.00), for each Occurrence, for the preparation and review of documentation plus HST. (This does not include or form part of any legal fees which are to be charged for the preparation and discharge of the mortgage. Further, the Borrower(s) are responsible for any and all legal fees due and payable to the Lender's solicitor in relation to the mortgage loan).

**Discharge Registration Fee:**

The Borrower(s) shall pay any out-of-pocket expenses incurred in relation to the preparation and registration of discharge documentation. (This includes but is not limited to the Government Registration Charge for the registration of a Discharge of Charge).



N.S.F or Default Payment Fee:

The Borrower(s) shall pay the amount of \$35.00 for each occurrence of NSF or a default Payment, plus \$50.00 / diem added and payable for each occurrence that a payment is not made when due or the outstanding balance is not paid in full on the Maturity Date and the mortgage loan has not been renewed. Such fees will be added to the principal amount outstanding not paid within five days of occurrence.

Missed or Late Payment Fee:

The Borrower(s) shall pay the amount of (\$200.00), for each missed or late installment and for the replacement of each cheque or other instrument not honoured when presented for payment. If any cheque has been provided to the Lender which is either late or returned for any reason, the replacement amount must be paid by way of certified cheque or bank draft. Such fees will be added to the principal amount outstanding not paid within five days of occurrence.

Property Tax Administration Fee:

The Borrower(s) shall pay the amount of (\$250.00) Two Hundred and Fifty Dollars, for each occurrence, that the Borrower(s) are unable to provide proof/or evidence that the Property Taxes are paid up to date, at the request of the Lender. Such fees will be added to the principal amount outstanding not paid within five days of occurrence.

Insurance Administration Fee:

The Borrower(s) shall pay the amount of Two Hundred and Fifty Dollars, for each occurrence, that the Borrower(s) are unable to provide proof/or evidence of a current and effective insurance policy noting the Lender as "loss payee" under the said policy, at the request of the Lender. Such fees will be added to the principal amount outstanding not paid within five days of occurrence.

Payment Deferral Fee:

Should the Borrower(s) request a deferral of payment, and same has been approved by the Lender, the Borrower(s) shall pay to the lender a Payment Deferral Fee of (\$250.00), for each such occurrence. Such fees will be added to the principal amount outstanding not paid within five days of occurrence.

Post-Dated Cheques:

The Borrower(s) are to provide the Lender with 6 post-dated cheques prior to the funding of the mortgage loan and upon each half-year anniversary of the mortgage loan. Should the Borrower(s) fail to provide the 12-post-dated cheque payable to the Lender; the Borrower(s) shall pay to the Lender a Post-Dated Cheques Fee of Two Hundred and Fifty Dollars (\$250.00), for each such occurrence. Such fees will be added to the principal amount outstanding not paid within five days of occurrence. Failure to provide such cheques shall constitute a default under the Mortgage at the sole option of the Lender.

Legal / Demand Letters:

Should the Lender or their solicitor be required to send a letter to you in relation to your Mortgage Loan and any default or demand letters thereto, the Borrower(s) shall pay the Lender or lender's lawyer the sum of Five Hundred Dollars (\$500.00) for each such occurrence. Such fees will be added to the principal amount outstanding not paid within five days of occurrence.

3 months interest bonus and Power of Sale Upon default:

3 Months interest bonus due upon default. The lender has the right to initiate power of sale proceedings upon the default of 3 months of payment without further notice to the borrower or his representative. In case of default proceedings, an administration fee of \$ 6,500.00 will be charged for each action or proceeding.

The Mortgagee's additional administration and servicing fees are and shall be as follows:

Default Proceedings:	Payable for each step in any legal action or proceeding instituted	\$6,500.00
Admin Renewal Fee:	Minimum admin fee charged upon each renewal	\$450.00
Mortgage Statements:	Minimum fee for preparation of each statement by the mortgagee or mortgagee lawyer	\$ 450.00
Possession:	For attendance to take possession following default by the lender	\$6,500.00
Administration Fee:	Administration fee upon discharging your mortgage.	\$ 450.00
Maintenance:	For administering maintenance and security of the property in mortgagee's possession per day.	\$ 350.00

45540496.3

# APPENDIX O

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**From:** Maya Poliak <Maya@chaitons.com>  
**Sent:** November 25, 2024 12:12 PM  
**To:** Pawel Fugiel  
**Cc:** Howard Manis; Noah Goldstein  
**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Pawel,

As our office has previously advised you and your legal counsel, your offer was not considered until we received evidence that you or your lender had the financial ability to fund your proposed transaction. We also advised you and your legal counsel on November 15, 2024 that the Receiver was reviewing another offer and that it was not prepared to await for receipt of your information. We did not receive evidence of financing from you to support your offer. As such, the Receiver entered into another transaction.

---

**Maya Poliak | Partner**  
**Chaitons LLP | T: 416.218.1161**

---

**From:** Pawel Fugiel <lapueinternational@gmail.com>  
**Sent:** Friday, November 22, 2024 9:16 PM  
**To:** Maya Poliak <Maya@chaitons.com>  
**Cc:** Howard Manis <hmanis@manislaw.ca>; Noah Goldstein <ngoldstein@ksvadvisory.com>  
**Subject:** Re: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

**CAUTION: [External]**

Maya

When the receiver entered into a sale transaction, today?

What was the reason my offer was rejected ?

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.  
C: 647.705.9810  
[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Fri, Nov 22, 2024 at 12:53 PM Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)> wrote:

Howard,

The Receiver has now entered into a transaction for the sale of the Property. We are in the process of canvassing dates with the Court. Please advise if your client intends to oppose the sale and if there are dates that you are not available to attend a hearing in the month of December.

---

**Maya Poliak | Partner**  
**Chaitons LLP | T: 416.218.1161**

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** Friday, November 22, 2024 11:13 AM  
**To:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: FW: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

**CAUTION:** [External]

Noah and Maya,

Please confirm today that our client's Offer is acceptable to the Receiver as the lender has insisted upon that before providing confirmation of funds as it does not wish to do so without assurance that there would be a firm transaction.

We await hearing from you today.

Howard



**Howard F. Manis**

**MANIS LAW**

• Bankruptcy & Insolvency • Commercial

(416) 417-7257

[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)

[www.ManisLaw.ca](http://www.ManisLaw.ca)

 2300 Yonge Street, Suite 1600, Toronto

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**From:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Sent:** November 21, 2024 3:44 PM

**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>

**Cc:** Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

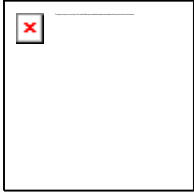
**Subject:** Re: FW: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

Hi Noah,

I noticed that Howard forgot to send the updated commitment with his email, outlining the conditions that have been satisfied, and ready to move forward with the new lender.

Thank you,

**Pawel Fugiel**  
**C.E.O**



**La Pue International Inc.**

[6158 Allendale Ave | Niagara Falls | ON | L2G 0A5 | Canada](#)

Direct: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

On Thu, Nov 21, 2024 at 2:56 PM Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)> wrote:

Good afternoon,

Please see the email exchange below as we expect to have what you need by the end of the day tomorrow assuming all goes as expected.

Howard



**Howard F. Manis**

**MANIS LAW**

• Bankruptcy & Insolvency • Commercial

(416) 417-7257

[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)

[www.ManisLaw.ca](http://www.ManisLaw.ca)

 2300 Yonge Street, Suite 1600, Toronto

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---

**From:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Sent:** November 21, 2024 11:31 AM

**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>

**Subject:** Re: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

Please share this with the receiver , we almost there!

--

PAWEL FUGIEL

LA PUE INTERNATIONAL INC.

C: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

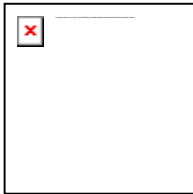


On Thu, Nov 21, 2024 at 10:07 AM Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)> wrote:

Howard, Please see response from Albert below and commitment signed and attached. Most of the conditions are waived.

**Thank you,**

**Pawel Fugiel  
C.E.O**



**La Pue International Inc.**  
[6158 Allendale Ave | Niagara Falls | ON | L2G 0A5 | Canada](#)  
Direct: 647.705.9810

[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

----- Forwarded message -----

From: **Albert Guido** <[aguido@fiducia.ca](mailto:aguido@fiducia.ca)>

Date: Wed, Nov 20, 2024 at 6:36 PM

Subject: Fwd: Proposed financing with La Pue International Inc. - [5528 Ferry Street, Niagara Falls, ON](#)

To: Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

Thank you Pawel, for providing the executed engagement letter this afternoon.

Our lawyer will proceed to send the updated commitment tomorrow, outlining the conditions that have been satisfied and confirming proof of funds availability for the proposed loan.

I will also follow up tonight with the signed engagement letter and details regarding the work fee payment.

Thank you,  
Albert

|||

# APPENDIX P

## The Stanley District Lands - MZGI 424

5528 Ferry St., Niagara Falls Ontario

**DISCHARGE STATEMENT AS AT:** December 18, 2024

Prepared on December 03, 2024

ID #: DS20241218MZGI424

SUMMARY OF TERMS:\*

**Commitment Letter Date:** November 15, 2021

**Loan Number:** MZGI 424

Facility Name	Committed Amount	Current Interest Rate(s):
Facility 1	\$18,000,000.00	Prime + 7.05%; Floor 9.50%
Receiver Financing	\$500,000.00	12.00%
<b>Total</b>	<b>\$18,500,000.00</b>	

**Non-Standard Terms:**

\$18,000,000 1st mortgage land loan with a term of 13 months.

Facility 1: \$18,000,000 Interest at Prime + 7.05% per annum (Floor Rate: 9.50%)

Project deemed to have entered wrap-up rate as of March 1, 2023.

Interest shall accrue commencing on the date of the Initial Advance, calculated daily (365 days/year), compounded and payable monthly with interest only payments made from the Interest Reserve. Once the Interest Reserve has been fully utilized, interest payments will come from the Borrower and/or the Guarantor's own resources. Prime shall be defined as the Bank of Montreal Prime Rate of Interest. For the purpose of determining the interest rate used in the interest calculation, the Bank of Montreal Prime Business Rate on the first day of each month will be used as the Prime Rate for that entire month.

**Wrap-Up Start Date:** March 01, 2023

**Papered Maturity Date:** April 01, 2023

DISCHARGE SUMMARY:	Facility 1	Receiver Financing	Total
Principal Amount Outstanding	\$12,375,000.00	\$500,000.00	\$12,875,000.00
Unpaid Interest Outstanding	\$7,877,932.73	\$23,266.95	\$7,901,199.68
Cost Recovery (Sched. A)			\$12,333.08
Outstanding Fees (Sched. A)			\$145,500.00
Cash Held In Trust			(\$226.23)
<b>Total Payable on Wednesday, December 18, 2024</b>			<b>\$20,933,806.53</b>
Per Diem	\$14,254.13	\$171.08	\$14,425.21

\*In the event of a conflict between the information contained herein and the Commitment Letter, the Commitment Letter shall prevail.

If Total Payable is not received by 1:00 pm on the as at date of this Discharge Statement, then a per diem in the rate set out above will be charged. This Discharge Statement is only valid until the date specified. Balances are projected and are based on the assumption that all outstanding amounts/payments due up to the date of this Discharge Statement are paid as set out therein. Additional legal fees, enforcement costs and disbursements incurred by MarshallZehr Group Inc. may not be reflected on this statement and will be confirmed prior to the date of discharge. Please confirm the Total Payable prior to remitting funds.

MarshallZehr Group Inc. will not provide a discharge of the mortgage until the entire outstanding balance, including interest and costs have been paid and honoured.

This discharge statement is valid until the last business day of December 2024

You are authorized and directed to make the balance due payable to our solicitor: Chaitons LLP "In Trust", OR as they may further direct. For any further queries please reach out to Robert Miller at (416) 218-1134 or robert@chaitons.com.

MARSHALLZEHR GROUP INC.

Per:   
box SIGN 4697JLW-4WPV28K5

— Murray Snedden  
Chief Operating Officer & Principal Broker

Per:   
box SIGN 4WL68XR3-4WPV28K5

— Asif Virani  
Manager - Mortgage Operations

E. & O. E.

## The Stanley District Lands - MZGI 424 - SCHEDULE A

### Cost Recovery

Description	Amount
The Stanley District Lands - MZGI 424 O/S legal invoice 293219	\$2,107.14
The Stanley District Lands - MZGI 424 Inv 293942	\$10,225.94
<b>Total Cost Recovery</b>	<b>\$12,333.08</b>

### Outstanding Fees

Description	Fee Amount	Quantity	Total
Administration Fee	\$5,000.00	29	\$145,000.00
Discharge Statement Fee	\$500.00	1	\$500.00
<b>Total Outstanding Fees</b>			<b>\$145,500.00</b>

E. & O. E.



Your MarshallZehr Mortgage Statement

The Stanley District Lands - MZGI 424

Statement for November 30, 2021 to December 18, 2024

La Pue International Inc.
511 Macdonald Road
Oakville, Ontario
L6J 2B7

Mortgage Snapshot table with columns: As at December 18, 2024 and As at November 29, 2021. Rows include Principal outstanding, Accrued interest, Payable interest, and Total Balance Outstanding.

Principal and Interest Summary table with column: Period Ended December 18, 2024. Rows include Accrued interest charged, Payable interest charged, Interest paid, Principal advanced, Principal discharged, and Net Increase (Decrease).

Maximum Advanceable Amount table with column: As at December 18, 2024. Rows include Total committed amount, Total advanced amount, and Unadvanced amount.

(1) Information in this statement does not include paid/unpaid fees, trust account balances, or other recoverable costs by the MarshallZehr Group Inc.
(2) Committed amount represents the maximum loan amount, or credit limit, that is advanceable under the terms of the commitment letter agreement.
(3) This statement is for informational purposes only and is not to be considered as a discharge amount
(4) Information presented in this statement is for the sole use of the intended recipient, and should not be used by any parties other than the intended recipient, without express written consent from MarshallZehr Group Inc.
(5) In case of error on this statement, it is the creditor's obligation to notify us for correction no later than thirty (30) days after the first statement was sent on which the error appears, using the contact information set forth in this statement.

**Period Activity**

Date	Transaction Description	Facility Name	Principal	Interest	Total
<i>Funding F1-1</i>		<i>Facility 1</i>			
30-Nov-21	Opening Balance		\$0.00	\$0.00	\$0.00
30-Nov-21	Interest Charged		\$0.00	\$3,123.29	\$3,123.29
30-Nov-21	Principal Advanced		\$12,000,000.00	\$0.00	\$12,000,000.00
01-Dec-21	Payment		\$0.00	(\$3,123.29)	(\$3,123.29)
31-Dec-21	Interest Charged		\$0.00	\$96,821.99	\$96,821.99
01-Jan-22	Payment		\$0.00	(\$96,821.99)	(\$96,821.99)
31-Jan-22	Interest Charged		\$0.00	\$96,821.99	\$96,821.99
01-Feb-22	Payment		\$0.00	(\$96,821.99)	(\$96,821.99)
28-Feb-22	Interest Charged		\$0.00	\$87,452.12	\$87,452.12
01-Mar-22	Payment		\$0.00	(\$87,452.12)	(\$87,452.12)
31-Mar-22	Interest Charged		\$0.00	\$96,821.99	\$96,821.99
01-Apr-22	Payment		\$0.00	(\$96,821.99)	(\$96,821.99)
30-Apr-22	Interest Charged		\$0.00	\$96,164.40	\$96,164.40
01-May-22	Payment		\$0.00	(\$96,164.40)	(\$96,164.40)
31-May-22	Interest Charged		\$0.00	\$104,465.66	\$104,465.66
01-Jun-22	Payment		\$0.00	(\$104,465.66)	(\$104,465.66)
30-Jun-22	Interest Charged		\$0.00	\$101,095.80	\$101,095.80
01-Jul-22	Payment		\$0.00	(\$101,095.80)	(\$101,095.80)
31-Jul-22	Interest Charged		\$0.00	\$109,561.75	\$109,561.75
01-Aug-22	Payment		\$0.00	(\$109,561.75)	(\$109,561.75)
31-Aug-22	Interest Charged		\$0.00	\$119,753.31	\$119,753.31
01-Sep-22	Payment		\$0.00	(\$119,753.31)	(\$119,753.31)
30-Sep-22	Interest Charged		\$0.00	\$115,890.30	\$115,890.30
01-Oct-22	Payment		\$0.00	(\$115,890.30)	(\$115,890.30)
31-Oct-22	Interest Charged		\$0.00	\$127,397.29	\$127,397.29
01-Nov-22	Payment		\$0.00	(\$127,397.29)	(\$127,397.29)
30-Nov-22	Interest Charged		\$0.00	\$128,219.10	\$128,219.10
07-Dec-22	Payment		\$0.00	(\$128,219.10)	(\$128,219.10)
31-Dec-22	Interest Charged		\$0.00	\$132,997.84	\$132,997.84
31-Jan-23	Interest Charged		\$0.00	\$139,114.05	\$139,114.05
06-Feb-23	Payment		\$0.00	(\$132,997.84)	(\$132,997.84)
09-Feb-23	Payment		\$0.00	(\$48,484.84)	(\$48,484.84)
22-Feb-23	Payment		\$0.00	(\$91,114.09)	(\$91,114.09)
28-Feb-23	Interest Charged		\$0.00	\$128,148.03	\$128,148.03
01-Mar-23	Payment		\$0.00	(\$127,663.15)	(\$127,663.15)
31-Mar-23	Interest Charged		\$0.00	\$280,274.10	\$280,274.10



**Period Activity**

Date	Transaction Description	Facility Name	Principal	Interest	Total
30-Apr-23	Interest Charged		\$0.00	\$277,567.80	\$277,567.80
31-May-23	Interest Charged		\$0.00	\$293,303.09	\$293,303.09
30-Jun-23	Interest Charged		\$0.00	\$290,471.10	\$290,471.10
31-Jul-23	Interest Charged		\$0.00	\$312,518.44	\$312,518.44
31-Aug-23	Interest Charged		\$0.00	\$325,663.68	\$325,663.68
12-Sep-23	Payment		\$0.00	(\$71,264.27)	(\$71,264.27)
30-Sep-23	Interest Charged		\$0.00	\$322,787.10	\$322,787.10
31-Oct-23	Interest Charged		\$0.00	\$339,634.76	\$339,634.76
30-Nov-23	Interest Charged		\$0.00	\$336,634.80	\$336,634.80
31-Dec-23	Interest Charged		\$0.00	\$356,004.31	\$356,004.31
31-Jan-24	Interest Charged		\$0.00	\$364,621.69	\$364,621.69
29-Feb-24	Interest Charged		\$0.00	\$349,354.01	\$349,354.01
31-Mar-24	Interest Charged		\$0.00	\$381,903.57	\$381,903.57
30-Apr-24	Interest Charged		\$0.00	\$378,530.10	\$378,530.10
31-May-24	Interest Charged		\$0.00	\$400,310.44	\$400,310.44
30-Jun-24	Interest Charged		\$0.00	\$396,774.30	\$396,774.30
31-Jul-24	Interest Charged		\$0.00	\$412,242.65	\$412,242.65
31-Aug-24	Interest Charged		\$0.00	\$414,509.68	\$414,509.68
30-Sep-24	Interest Charged		\$0.00	\$410,507.40	\$410,507.40
31-Oct-24	Interest Charged		\$0.00	\$425,891.95	\$425,891.95
30-Nov-24	Interest Charged		\$0.00	\$405,989.70	\$405,989.70
18-Dec-24	Interest Charged		\$0.00	\$248,799.42	\$248,799.42
18-Dec-24	Closing Balance		\$12,000,000.00	\$7,653,029.82	\$19,653,029.82
<b>Funding F1-2</b>		<b>Facility 1</b>			
30-Nov-21	Opening Balance		\$0.00	\$0.00	\$0.00
30-Jun-22	Interest Charged		\$0.00	\$105.31	\$105.31
30-Jun-22	Principal Advanced		\$375,000.00	\$0.00	\$375,000.00
01-Jul-22	Payment		\$0.00	(\$105.31)	(\$105.31)
31-Jul-22	Interest Charged		\$0.00	\$3,423.95	\$3,423.95
01-Aug-22	Payment		\$0.00	(\$3,423.95)	(\$3,423.95)
31-Aug-22	Interest Charged		\$0.00	\$3,742.32	\$3,742.32
01-Sep-22	Payment		\$0.00	(\$3,742.32)	(\$3,742.32)
30-Sep-22	Interest Charged		\$0.00	\$3,621.60	\$3,621.60
01-Oct-22	Payment		\$0.00	(\$3,621.60)	(\$3,621.60)
31-Oct-22	Interest Charged		\$0.00	\$3,981.02	\$3,981.02
01-Nov-22	Payment		\$0.00	(\$3,981.02)	(\$3,981.02)
30-Nov-22	Interest Charged		\$0.00	\$4,006.80	\$4,006.80

**Period Activity**

Date	Transaction Description	Facility Name	Principal	Interest	Total
07-Dec-22	Payment		\$0.00	(\$4,006.80)	(\$4,006.80)
31-Dec-22	Interest Charged		\$0.00	\$4,156.19	\$4,156.19
31-Jan-23	Interest Charged		\$0.00	\$4,347.44	\$4,347.44
06-Feb-23	Payment		\$0.00	(\$4,156.19)	(\$4,156.19)
09-Feb-23	Payment		\$0.00	(\$1,515.16)	(\$1,515.16)
22-Feb-23	Payment		\$0.00	(\$2,847.40)	(\$2,847.40)
28-Feb-23	Interest Charged		\$0.00	\$4,004.63	\$4,004.63
01-Mar-23	Payment		\$0.00	(\$3,989.51)	(\$3,989.51)
31-Mar-23	Interest Charged		\$0.00	\$8,758.43	\$8,758.43
30-Apr-23	Interest Charged		\$0.00	\$8,673.90	\$8,673.90
31-May-23	Interest Charged		\$0.00	\$9,165.77	\$9,165.77
30-Jun-23	Interest Charged		\$0.00	\$9,077.10	\$9,077.10
31-Jul-23	Interest Charged		\$0.00	\$9,766.24	\$9,766.24
31-Aug-23	Interest Charged		\$0.00	\$10,176.99	\$10,176.99
12-Sep-23	Payment		\$0.00	(\$2,227.03)	(\$2,227.03)
30-Sep-23	Interest Charged		\$0.00	\$10,087.20	\$10,087.20
31-Oct-23	Interest Charged		\$0.00	\$10,613.47	\$10,613.47
30-Nov-23	Interest Charged		\$0.00	\$10,519.80	\$10,519.80
31-Dec-23	Interest Charged		\$0.00	\$11,125.28	\$11,125.28
31-Jan-24	Interest Charged		\$0.00	\$11,394.36	\$11,394.36
29-Feb-24	Interest Charged		\$0.00	\$10,917.34	\$10,917.34
31-Mar-24	Interest Charged		\$0.00	\$11,934.38	\$11,934.38
30-Apr-24	Interest Charged		\$0.00	\$11,829.00	\$11,829.00
31-May-24	Interest Charged		\$0.00	\$12,509.74	\$12,509.74
30-Jun-24	Interest Charged		\$0.00	\$12,399.30	\$12,399.30
31-Jul-24	Interest Charged		\$0.00	\$12,882.67	\$12,882.67
31-Aug-24	Interest Charged		\$0.00	\$12,953.35	\$12,953.35
30-Sep-24	Interest Charged		\$0.00	\$12,828.30	\$12,828.30
31-Oct-24	Interest Charged		\$0.00	\$13,309.23	\$13,309.23
30-Nov-24	Interest Charged		\$0.00	\$12,687.30	\$12,687.30
18-Dec-24	Interest Charged		\$0.00	\$7,774.92	\$7,774.92
18-Dec-24	Closing Balance		\$375,000.00	\$239,157.04	\$614,157.04
<i>Funding RF-1</i>		<i>Receiver Financing</i>			
30-Nov-21	Opening Balance		\$0.00	\$0.00	\$0.00
28-Feb-24	Principal Advanced		\$115,000.00	\$0.00	\$115,000.00
29-Feb-24	Interest Charged		\$0.00	\$75.62	\$75.62
01-Mar-24	Payment		\$0.00	(\$75.62)	(\$75.62)

**Period Activity**

Date	Transaction Description	Facility Name	Principal	Interest	Total
31-Mar-24	Interest Charged		\$0.00	\$1,172.11	\$1,172.11
01-Apr-24	Payment		\$0.00	(\$1,172.11)	(\$1,172.11)
30-Apr-24	Interest Charged		\$0.00	\$1,134.30	\$1,134.30
01-May-24	Payment		\$0.00	(\$1,134.30)	(\$1,134.30)
31-May-24	Interest Charged		\$0.00	\$1,172.11	\$1,172.11
01-Jun-24	Payment		\$0.00	(\$1,172.11)	(\$1,172.11)
30-Jun-24	Interest Charged		\$0.00	\$1,134.30	\$1,134.30
01-Jul-24	Payment		\$0.00	(\$1,134.30)	(\$1,134.30)
31-Jul-24	Interest Charged		\$0.00	\$1,172.11	\$1,172.11
01-Aug-24	Payment		\$0.00	(\$1,172.11)	(\$1,172.11)
31-Aug-24	Interest Charged		\$0.00	\$1,172.11	\$1,172.11
30-Sep-24	Interest Charged		\$0.00	\$1,145.70	\$1,145.70
31-Oct-24	Interest Charged		\$0.00	\$1,195.67	\$1,195.67
30-Nov-24	Interest Charged		\$0.00	\$1,168.80	\$1,168.80
18-Dec-24	Interest Charged		\$0.00	\$708.30	\$708.30
18-Dec-24	Closing Balance		\$115,000.00	\$5,390.58	\$120,390.58
<i>Funding RF-2</i>		<i>Receiver Financing</i>			
30-Nov-21	Opening Balance		\$0.00	\$0.00	\$0.00
03-Jun-24	Principal Advanced		\$385,000.00	\$0.00	\$385,000.00
30-Jun-24	Interest Charged		\$0.00	\$3,544.24	\$3,544.24
01-Jul-24	Payment		\$0.00	(\$3,544.24)	(\$3,544.24)
31-Jul-24	Interest Charged		\$0.00	\$3,923.98	\$3,923.98
01-Aug-24	Payment		\$0.00	(\$3,923.98)	(\$3,923.98)
31-Aug-24	Interest Charged		\$0.00	\$3,923.98	\$3,923.98
30-Sep-24	Interest Charged		\$0.00	\$3,836.10	\$3,836.10
31-Oct-24	Interest Charged		\$0.00	\$4,003.03	\$4,003.03
30-Nov-24	Interest Charged		\$0.00	\$3,913.20	\$3,913.20
18-Dec-24	Interest Charged		\$0.00	\$2,371.14	\$2,371.14
18-Dec-24	Closing Balance		\$385,000.00	\$18,047.45	\$403,047.45
<b>Total Activity</b>			<b>\$12,875,000.00</b>	<b>\$7,915,624.89</b>	<b>\$20,790,624.89</b>
<b>18-Dec-24</b>	<b>Ending Balance</b>		<b>\$12,875,000.00</b>	<b>\$7,915,624.89</b>	<b>\$20,790,624.89</b>

**Period Rates**

Funding Number / Date	Transaction Description	Facility Name	Borrower Interest Rate (Accrued)	Borrower Interest Rate (Payable)
<i>F1-1</i>		<i>Facility 1</i>		
30-Nov-21	Opening rate		0.00%	9.50%
30-Nov-21	Start rate		0.00%	9.50%
01-Apr-22	Rate change		0.00%	9.75%
01-May-22	Rate change		0.00%	10.25%
01-Jul-22	Rate change		0.00%	10.75%
01-Aug-22	Rate change		0.00%	11.75%
01-Oct-22	Rate change		0.00%	12.50%
01-Nov-22	Rate change		0.00%	13.00%
01-Jan-23	Rate change		0.00%	13.50%
01-Feb-23	Rate change		0.00%	13.75%
01-Mar-23	Rate change		0.00%	27.50%
01-Jul-23	Rate change		0.00%	28.00%
01-Aug-23	Rate change		0.00%	28.50%
01-Jul-24	Rate change		0.00%	28.00%
01-Aug-24	Rate change		0.00%	27.50%
01-Oct-24	Rate change		0.00%	27.00%
01-Nov-24	Rate change		0.00%	26.00%
18-Dec-24	Closing rate		0.00%	26.00%
<i>F1-2</i>		<i>Facility 1</i>		
30-Jun-22	Start rate		0.00%	10.25%
01-Jul-22	Rate change		0.00%	10.75%
01-Aug-22	Rate change		0.00%	11.75%
01-Oct-22	Rate change		0.00%	12.50%
01-Nov-22	Rate change		0.00%	13.00%
01-Jan-23	Rate change		0.00%	13.50%
01-Feb-23	Rate change		0.00%	13.75%
01-Mar-23	Rate change		0.00%	27.50%
01-Jul-23	Rate change		0.00%	28.00%
01-Aug-23	Rate change		0.00%	28.50%
01-Jul-24	Rate change		0.00%	28.00%
01-Aug-24	Rate change		0.00%	27.50%
01-Oct-24	Rate change		0.00%	27.00%
01-Nov-24	Rate change		0.00%	26.00%

**Period Rates**

Funding Number / Date	Transaction Description	Facility Name	Borrower Interest Rate (Accrued)	Borrower Interest Rate (Payable)
18-Dec-24	Closing rate		0.00%	26.00%
<i>RF-1</i>		<i>Receiver Financing</i>		
28-Feb-24	Start rate		0.00%	12.00%
18-Dec-24	Closing rate		0.00%	12.00%
<i>RF-2</i>		<i>Receiver Financing</i>		
03-Jun-24	Start rate		0.00%	12.00%
18-Dec-24	Closing rate		0.00%	12.00%

**MARSHALLZEHR GROUP INC.**  
Applicant

- and -

**LA PUE INTERNATIONAL INC.**  
Respondent

Court File No. CV-23-00700695-00CL

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

**Proceedings commenced at Toronto**

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**FOURTH REPORT OF KSV RESTRUCTURING INC.**  
**AS RECEIVER OF LA PUE INTERNATIONAL INC.**

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**AIRD & BERLIS LLP**

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*Lawyers for the Receiver*

# TAB 3

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

THE HONOURABLE MADAM ) WEDNESDAY, THE 18<sup>TH</sup>  
 )  
JUSTICE STEELE ) DAY OF DECEMBER, 2024  
 )

**BETWEEN:**

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**ORDER  
(Sale Approval)**

**THIS MOTION**, made by KSV Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets (the “**Property**”) of La Pue International Inc. (the “**Debtor**”) for an order, among other things:

- (a) validating service of the Receiver’s Notice of Motion and Motion Record;
- (b) approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement, as amended by the First Reinstatement and Amending Agreement dated July 12, 2024, the Second Reinstatement and Amending Agreement dated October 8, 2024 and the Third Reinstatement and Amending Agreement dated November 18, 2024 (collectively, the “**Sale Agreement**”), between the Receiver and Lakeshore Luxe Design & Build Group (“**Lakeshore**”), appended as Confidential Appendices 1, 2 and 3, respectively, to the Receiver’s Fourth Report to the Court dated December 11, 2024 (the “**Fourth Report**”) and vesting in 1000835091 Ontario Inc. (the



“**Purchaser**”), as assignee of Lakeshore, the Debtor’s right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), including the lands and premises located at the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario and legally described in **Schedule “A”** hereto (the “**Real Property**”); and

(c) sealing Confidential Appendices to the Fourth Report (collectively, the “**Confidential Appendices**”) pending the closing of the Transaction or a further order of the Court,

was heard this day by judicial videoconference via Zoom.

**ON READING** the Motion Record of the Receiver dated December 11, 2024 including the Fourth Report, and on hearing the submissions of counsel for the Receiver, counsel to the Applicant, and such other counsel as were present and on the Counsel Slip, no one else appearing although properly served as appears from the Affidavits of Service of Daisy Jin sworn December 11, 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.

#### **APPROVAL OF THE TRANSACTION AND VESTING ORDER**

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 Purchased Assets 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 “B”** hereto (the “**Receiver's Certificate**”), the Purchased Assets, including 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, taxes, including real property taxes, 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 Cavanagh dated October 19, 2023 (the “**Receivership Order**”); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system including those registrations listed on Schedule “E” hereto but only in respect of the Purchased Assets; (iii) any Claims filed in respect of or affecting the Purchased Assets, including Claims in respect of the *Construction Act* (Ontario); and (iv) 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 Real Property are hereby expunged and discharged as against the Real Property.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Niagara (South) (No. 59) 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 Real Property in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Encumbrances listed in Schedule “C” hereto.

5. **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.

6. **THIS COURT ORDERS** that notwithstanding anything else contained herein, the "Property" as defined in the preamble of this Order and the Purchased Assets vesting in the Purchaser shall not include any current or future funds related to deposits held in trust by any law firm acting on behalf of a the Deposit Insurer, Sovereign General Insurance Company or the Debtor with respect to the purchase of a residential unit located on any of the Real Property, including, without limitation, the deposits held by Sullivan Mahoney LLP in trust related to a residential development known as The Stanley District containing 435 residential dwelling units at Ferry Street in the City of Niagara Falls (the "**Deposits**"). Further, nothing in this Order shall, or is intended to, entitle or grant the Purchaser any interest in the Deposits.

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

8. **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 the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

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 the Debtor and shall not be void or voidable by creditors of the Debtor, 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.

9. **THIS COURT ORDERS** that the Confidential Appendices to the Fourth Report be and hereby are sealed pending the completion of the Transaction or a further order of the Court.

10. **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.

11. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

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## Schedule "A" – Real Property

**Municipal Address:** 5528 Ferry Street, Niagara Falls, Ontario

**PIN:** 64349-0258 (LT)

**Property Description:** Firstly: Lots 46, 51, 52, 61, 62, 63, 64 & 65, Plan 273 & Part Lots 43, 44, 45, 47, 48, 49 & 50, Plan 273, Village of Niagara Falls, Parts 1 & 3 Plan 59R17206; Secondly: Surface Rights Only (as in RO718049), Part Lots 47, 48, 49 & 50 Plan 273, Village of Niagara Falls, Part 2 Plan 59R17206; subject to an Easement over Parts 1 & 2 59R17292 in favour of Part Lots 41 & 42 Plan 273 as in RO441658 as in SN754703; City of Niagara Falls

**Schedule “B” – Form of Receiver’s Certificate**

Court File No. CV-23-00700695-00CL

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

**BETWEEN:**

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (the “**Court**”) dated October 19, 2023, KSV Restructuring Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of La Pue International Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated June 21, 2024 (“**Approval and Vesting Order**”), the Court approved the asset purchase agreement (as amended, restated, reinstated or otherwise supplement from time to time, the “**Sale Agreement**”) between the Receiver and Lakeshore Luxe Design & Build Group (the “**Purchaser**”) and provided for the vesting in the Purchaser all of the Debtor’s right, title and interest in and to the Purchased Assets, 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 contemplated by the Sale Agreement (the “**Transaction**”) has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Approval and Vesting Order.

**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.; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_, 2024.

**KSV RESTRUCTURING INC., solely in its capacity as Court-Appointed Receiver of La Pue International Inc. and not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

**Schedule “C” – Encumbrances to be deleted and expunged from title to Real Property.**

<b>No.</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>Instrument Type</b>	<b>Amount</b>	<b>Encumbrancers</b>
1.	SN644659	2020/10/02	Charge	\$2,000,000	The Sovereign General Insurance Company
2.	SN658896	2021/01/26	Notice	\$1	The Sovereign General Insurance Company
3.	SN703091	2021/12/01	Charge	\$13,800,000	MarshallZehr Group Inc.
4.	SN703094	2021/12/01	Notice of Assignment of Rents – General		MarshallZehr Group Inc.
5.	SN703098	2021/12/01	Postponement		MarshallZehr Group Inc.
6.	SN703255	2021/12/01	Application to Annex Restrictive Covenants S.118		MarshallZehr Group Inc.
7.	SN743390	2022/09/26	Notice of Change of Address		MarshallZehr Group Inc.
8.	SN758055	2023/02/22	Construction Lien	\$3,673,337	HC Matcon Inc.
9.	SN759949	2023/03/15	Construction Lien	\$841,498	Kada Group Inc.
10.	SN760306	2023/03/17	Construction Lien	\$8,205,941	Buttcon Limited
11.	SN761643	2023/03/31	Construction Lien	\$123,734	Kada Group Inc.
12.	SN764799	2023/05/01	Certificate		HC Matcon Inc.
13.	SN767364	2023/05/26	Construction Lien	\$23,278	TT Galbraith Electric Ltd
14.	SN769190	2023/06/12	Certificate		Buttcon Limited
15.	SN770167	2023/06/21	Certificate		Kada Group Inc.



16.	SN771564	2023/07/04	Construction Lien	\$43,630	HC Matcon Inc.
17.	SN772841	2023/07/14	Certificate		HC Matcon Inc.
18.	SN787037	2023/11/29	Construction Lien	\$254,023	HC Matcon Inc.
19.	SN788992	2023/12/18	Certificate		HC Matcon Inc.

**Schedule “D” – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

1. Any reservations, restrictions, rights of way, easements or covenants that run with the land;
2. Any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
3. All laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
4. Any minor easements for the supply of utility services or other services to the Lands or Buildings, if any, or adjacent properties;
5. Encroachments disclosed by any error or omission in existing surveys of the Lands or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Lands and survey of the Lands and survey matters generally;
6. The exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
7. Any reservation(s) contained in the original grant from Crown;
8. Subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14.
9. Provincial succession duties and escheats or forfeiture to the Crown;
10. The rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
11. Any lease to which subsection 70(2) of the *Registry Act* (Ontario) applies; and

## 12. The following instruments registered on title to the Premises:

No.	Registration No.	Registration Date	Instrument Type	Parties To
1.	SN613492	2019/12/12	Application to Consolidate	
2.	SN629148	2020/05/14	Notice	The Corporation of the City of Niagara Falls
3.	SN642462	2020/09/18	Notice	The Corporation of the City of Niagara Falls
4.	59R16793	2020/10/01	Plan Reference	
5.	SN666113	2021/03/22	Application Bylaw Deeming Plan Not A Plan	The Corporation of the City of Niagara Falls
6.	SN666891	2021/03/26	Notice	The Corporation of the City of Niagara Falls
7.	59R17206	2022/03/11	Plan Reference	
8.	SN716940	2022/03/11	Application Absolute Title	La Pue International Inc.
9.	SN721529	2022/04/12	Application (General)	The Corporation of the City of Niagara Falls
10.	SN721530	2022/04/12	Application (General)	The Corporation of the City of Niagara Falls
11.	SN721531	2022/04/12	Application (General)	The Corporation of the City of Niagara Falls
12.	SN723231	2022/04/26	Notice	The Corporation of the City of Niagara Falls
13.	59R17292	2022/06/13	Plan Reference	
14.	SN754703	2023/01/13	Transfer Easement	Anastasia Georgina Loukas and 2779006 Ontario Inc.
15.	SN754704	2023/01/13	Postponement	Anastasia Georgina Loukas and 2779006 Ontario Inc.
16.	SN754705	2023/01/13	Postponement	Anastasia Georgina Loukas and 2779006 Ontario Inc.
17.	SN754853	2023/01/16	Land Registrar's Order	Land Registrar, Niagara South Land Registry Office
18.	SN763208	2023/04/17	Notice	Anastasia Georgina Loukas and 2779006 Ontario Inc. and La Pue International Inc.

**Schedule “E” – PPSA Registrations to be Released but only in respect of Purchased Assets**

Date of Registration	Secured Party	File Number	Registration Number	Expiry Date
Jun 1, 2022	Newroads Automotive Group Ltd.	783547137	20220601 1259 1210 8587	Jun 1, 2026
Nov. 25, 2021	Marshallzehr Group Inc.	778525902	2021125 1518 1590 6050	Nov. 25, 2026
Nov. 25, 2021	Marshallzehr Group Inc.	778525911	2021125 1519 1590 6051	Nov. 25, 2026
Jan. 26, 2021	The Sovereign General Insurance Company	769461417	20210126 1509 1862 9924	Jan. 26, 2032
Oct. 2, 2020	The Sovereign General Insurance Company	766400931	20201002 1508 1862 2211	Oct. 2, 2031

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

Court File No. CV-23-00700695-00CL

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceedings commenced at TORONTO

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**APPROVAL AND VESTING ORDER**

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**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
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**Adrienne Ho (LSO# 68439N)**

Tel: 416-637-7980  
Email: aho@airdberlis.com

*Lawyers for the Receiver, KSV Restructuring  
Inc.*

# TAB 4

Court File No. ~~\_\_\_\_\_~~ CV-23-00700695-00CL

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

THE HONOURABLE ~~\_\_\_\_\_~~ MADAM ) ~~WEEKDAY~~ WEDNESDAY, THE # 18<sup>TH</sup>  
JUSTICE ~~\_\_\_\_\_~~ STEELE ) DAY OF ~~MONTH~~ DECEMBER, ~~20YR~~ 2024

~~BETWEEN~~ BETWEEN:  
~~PLAINTIFF~~

MARSHALLZEHR GROUP INC.

~~Plaintiff~~ Applicant

- and -

LA PUE INTERNATIONAL INC.

~~DEFENDANT~~ Respondent

~~Defendant~~

~~APPROVAL AND VESTING ORDER~~

(Sale Approval)

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ KSV Restructuring Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets ~~of~~ [DEBTOR] (the "(the "Property") of La Pue International Inc. (the "Debtor")) for an order, among other things:

(a) validating service of the Receiver's Notice of Motion and Motion Record;

(b) approving the sale transaction (the "Transaction") contemplated by an ~~agreement of purchase and sale (the "~~asset purchase agreement, as amended by the First Reinstatement and Amending Agreement dated July 12, 2024, the Second Reinstatement and Amending Agreement dated October 8, 2024 and the Third Reinstatement and Amending Agreement dated November 18, 2024 (collectively, the

“Sale Agreement”), between the Receiver and ~~[NAME OF PURCHASER]~~ (the “Purchaser”) dated [DATE] and appended to the Report of the Receiver dated [DATE] (the “Report”); Lakeshore Luxe Design & Build Group (“Lakeshore”), appended as Confidential Appendices 1, 2 and 3, respectively, to the Receiver’s Fourth Report to the Court dated December 11, 2024 (the “**Fourth Report**”) and vesting in 1000835091 Ontario Inc. (the “**Purchaser**”), as assignee of Lakeshore, the Debtor’s right, title and interest in and to the ~~assets described~~ Purchased Assets (as defined in the Sale Agreement ~~(the “Purchased Assets”)~~), ~~was heard this day at 330 University Avenue, Toronto, Ontario.~~, including the lands and premises located at the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario and legally described in Schedule “A” hereto (the “**Real Property**”); and

(c) sealing Confidential Appendices to the Fourth Report (collectively, the “Confidential Appendices”) pending the closing of the Transaction or a further order of the Court,

was heard this day by judicial videoconference via Zoom.

ON READING the Motion Record of the Receiver dated December 11, 2024 including the Fourth Report, and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~, ~~no one appearing for any other person on the service list~~, counsel to the Applicant, and such other counsel as were present and on the Counsel Slip, no one else appearing although properly served as appears from the ~~affidavit of [NAME] sworn [DATE]~~ Affidavits of Service of Daisy Jin sworn December 11, 2024, filed<sup>+</sup>:

## 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.

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<sup>+</sup> This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.



## APPROVAL OF THE TRANSACTION AND VESTING ORDER

2. ~~1.~~ **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved,<sup>2</sup> and the execution of the Sale Agreement by the Receiver<sup>3</sup> 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 Purchased Assets to the Purchaser.

3. ~~2.~~ **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**~~"B"~~ hereto (the "Receiver's Certificate"), ~~all of the Debtor's right, title and interest in and to~~ the Purchased Assets ~~described in the Sale Agreement [and listed on Schedule B hereto]~~<sup>4</sup>, including 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, taxes, including real property taxes, 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"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice [NAME] ~~dated [DATE]~~ Cavanagh dated October 19, 2023 (the "Receivership Order"); (ii) all charges, security

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<sup>2</sup> ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

<sup>3</sup> ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

<sup>4</sup> ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

<sup>5</sup> ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system including those registrations listed on Schedule “E” hereto but only in respect of the Purchased Assets; (iii) any Claims filed in respect of or affecting the Purchased Assets, including Claims in respect of the *Construction Act* (Ontario); and (iiiiv) 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~~Real Property are hereby expunged and discharged as against the ~~Purchased Assets~~Real Property.

4. ~~3.~~ **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the ~~[Registry Division of {LOCATION} of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver]~~[Land Titles Division of {LOCATION}, Niagara (South) (No. 59) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*]<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the ~~subject real property identified in Schedule B hereto (the “Real Property”)~~ in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the ~~Claims~~Encumbrances listed in Schedule “C” hereto.

5. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> 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

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<sup>6</sup>~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

<sup>7</sup>~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at “net proceeds”.~~

sale<sup>8</sup>, 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.

6. THIS COURT ORDERS that notwithstanding anything else contained herein, the "Property" as defined in the preamble of this Order and the Purchased Assets vesting in the Purchaser shall not include any current or future funds related to deposits held in trust by any law firm acting on behalf of a the Deposit Insurer, Sovereign General Insurance Company or the Debtor with respect to the purchase of a residential unit located on any of the Real Property, including, without limitation, the deposits held by Sullivan Mahoney LLP in trust related to a residential development known as The Stanley District containing 435 residential dwelling units at Ferry Street in the City of Niagara Falls (the "Deposits"). Further, nothing in this Order shall, or is intended to, entitle or grant the Purchaser any interest in the Deposits.

7. 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, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

8. 7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

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<sup>8</sup>This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

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

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 the Debtor and shall not be void or voidable by creditors of the Debtor, 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.

9. ~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~ that the Confidential Appendices to the Fourth Report be and hereby are sealed pending the completion of the Transaction or a further order of the Court.

10. ~~9. 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.

11. THIS COURT ORDERS that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

**Schedule "A" – Real Property**

**Municipal Address:** 5528 Ferry Street, Niagara Falls, Ontario

**PIN:** 64349-0258 (LT)

**Property Description:** Firstly: Lots 46, 51, 52, 61, 62, 63, 64 & 65, Plan 273 & Part Lots 43, 44, 45, 47, 48, 49 & 50, Plan 273, Village of Niagara Falls, Parts 1 & 3 Plan 59R17206; Secondly: Surface Rights Only (as in RO718049), Part Lots 47, 48, 49 & 50 Plan 273, Village of Niagara Falls, Part 2 Plan 59R17206; subject to an Easement over Parts 1 & 2 59R17292 in favour of Part Lots 41 & 42 Plan 273 as in RO441658 as in SN754703; City of Niagara Falls

Schedule A ~~“B”~~ – Form of Receiver’s Certificate

Court File No. ~~\_\_\_\_\_~~ CV-23-00700695-00CL

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

~~BETWEEN~~ **BETWEEN:**  
**PLAINTIFF**

**MARSHALLZEHR GROUP INC.**

**Plaintiff** Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**DEFENDANT**

**Defendant**

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Mr. Justice Cavanagh of the Ontario Superior Court of Justice (the ~~“Court”~~) dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ October 19, 2023, KSV Restructuring Inc. was appointed as the receiver (the ~~“Receiver”~~) of the undertaking, property and assets of ~~[DEBTOR]~~ La Pue International Inc. (the ~~“Debtor”~~).

B. Pursuant to an Order of the Court dated ~~[DATE]~~ June 21, 2024 (“Approval and Vesting Order”), the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT]~~ (asset purchase agreement (as amended, restated, reinstated or otherwise supplement from time to time, the ~~“Sale Agreement”~~) between the Receiver ~~[Debtor]~~ and [NAME OF PURCHASER] (the “and Lakeshore Luxe Design & Build Group (the “Purchaser”)) and provided for the vesting in the Purchaser all of the Debtor’s right, title and interest in and to the Purchased Assets, 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 ~~section • of~~ the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction contemplated by the Sale Agreement (the “Transaction”) has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale Agreement~~Approval and Vesting Order.

**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~~closing as set out in ~~section • of~~ the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ ~~[TIME]~~ on \_\_\_\_\_ ~~[DATE]~~ on \_\_\_\_\_, 2024.

~~[NAME OF RECEIVER], KSV~~  
RESTRUCTURING INC., solely in its capacity as Court-Appointed Receiver of the undertaking, property and assets of ~~[DEBTOR],~~ La Pue International Inc. and not in its personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule B—Purchased Assets**



**Schedule “C” – Encumbrances to be deleted and expunged from title to Real Property.**

<b><u>No.</u></b>	<b><u>Registration No.</u></b>	<b><u>Registration Date</u></b>	<b><u>Instrument Type</u></b>	<b><u>Amount</u></b>	<b><u>Encumbrancers</u></b>
<u>1.</u>	<u>SN644659</u>	<u>2020/10/02</u>	<u>Charge</u>	<u>\$2,000,000</u>	<u>The Sovereign General Insurance Company</u>
<u>2.</u>	<u>SN658896</u>	<u>2021/01/26</u>	<u>Notice</u>	<u>\$1</u>	<u>The Sovereign General Insurance Company</u>
<u>3.</u>	<u>SN703091</u>	<u>2021/12/01</u>	<u>Charge</u>	<u>\$13,800,000</u>	<u>MarshallZehr Group Inc.</u>
<u>4.</u>	<u>SN703094</u>	<u>2021/12/01</u>	<u>Notice of Assignment of Rents – General</u>		<u>MarshallZehr Group Inc.</u>
<u>5.</u>	<u>SN703098</u>	<u>2021/12/01</u>	<u>Postponement</u>		<u>MarshallZehr Group Inc.</u>
<u>6.</u>	<u>SN703255</u>	<u>2021/12/01</u>	<u>Application to Annex Restrictive Covenants S.118</u>		<u>MarshallZehr Group Inc.</u>
<u>7.</u>	<u>SN743390</u>	<u>2022/09/26</u>	<u>Notice of Change of Address</u>		<u>MarshallZehr Group Inc.</u>
<u>8.</u>	<u>SN758055</u>	<u>2023/02/22</u>	<u>Construction Lien</u>	<u>\$3,673,337</u>	<u>HC Matcon Inc.</u>
<u>9.</u>	<u>SN759949</u>	<u>2023/03/15</u>	<u>Construction Lien</u>	<u>\$841,498</u>	<u>Kada Group Inc.</u>
<u>10.</u>	<u>SN760306</u>	<u>2023/03/17</u>	<u>Construction Lien</u>	<u>\$8,205,941</u>	<u>Buttcon Limited</u>
<u>11.</u>	<u>SN761643</u>	<u>2023/03/31</u>	<u>Construction Lien</u>	<u>\$123,734</u>	<u>Kada Group Inc.</u>
<u>12.</u>	<u>SN764799</u>	<u>2023/05/01</u>	<u>Certificate</u>		<u>HC Matcon Inc.</u>

<u>13.</u>	<u>SN767364</u>	<u>2023/05/26</u>	<u>Construction Lien</u>	<u>\$23,278</u>	<u>TT Galbraith Electric Ltd</u>
<u>14.</u>	<u>SN769190</u>	<u>2023/06/12</u>	<u>Certificate</u>		<u>Butteon Limited</u>
<u>15.</u>	<u>SN770167</u>	<u>2023/06/21</u>	<u>Certificate</u>		<u>Kada Group Inc.</u>
<u>16.</u>	<u>SN771564</u>	<u>2023/07/04</u>	<u>Construction Lien</u>	<u>\$43,630</u>	<u>HC Matcon Inc.</u>
<u>17.</u>	<u>SN772841</u>	<u>2023/07/14</u>	<u>Certificate</u>		<u>HC Matcon Inc.</u>
<u>18.</u>	<u>SN787037</u>	<u>2023/11/29</u>	<u>Construction Lien</u>	<u>\$254,023</u>	<u>HC Matcon Inc.</u>
<u>19.</u>	<u>SN788992</u>	<u>2023/12/18</u>	<u>Certificate</u>		<u>HC Matcon Inc.</u>

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

**Schedule “D” – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

1. Any reservations, restrictions, rights of way, easements or covenants that run with the land;
2. Any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
3. All laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
4. Any minor easements for the supply of utility services or other services to the Lands or Buildings, if any, or adjacent properties;
5. Encroachments disclosed by any error or omission in existing surveys of the Lands or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Lands and survey of the Lands and survey matters generally;
6. The exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
7. Any reservation(s) contained in the original grant from Crown;
8. Subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14.
9. Provincial succession duties and escheats or forfeiture to the Crown;
10. The rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
11. Any lease to which subsection 70(2) of the *Registry Act* (Ontario) applies; and

12. The following instruments registered on title to the Premises:

<u>No.</u>	<u>Registration No.</u>	<u>Registration Date</u>	<u>Instrument Type</u>	<u>Parties To</u>
<u>1.</u>	<u>SN613492</u>	<u>2019/12/12</u>	<u>Application to Consolidate</u>	
<u>2.</u>	<u>SN629148</u>	<u>2020/05/14</u>	<u>Notice</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>3.</u>	<u>SN642462</u>	<u>2020/09/18</u>	<u>Notice</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>4.</u>	<u>59R16793</u>	<u>2020/10/01</u>	<u>Plan Reference</u>	
<u>5.</u>	<u>SN666113</u>	<u>2021/03/22</u>	<u>Application Bylaw Deeming Plan Not A Plan</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>6.</u>	<u>SN666891</u>	<u>2021/03/26</u>	<u>Notice</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>7.</u>	<u>59R17206</u>	<u>2022/03/11</u>	<u>Plan Reference</u>	
<u>8.</u>	<u>SN716940</u>	<u>2022/03/11</u>	<u>Application Absolute Title</u>	<u>La Pue International Inc.</u>
<u>9.</u>	<u>SN721529</u>	<u>2022/04/12</u>	<u>Application (General)</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>10.</u>	<u>SN721530</u>	<u>2022/04/12</u>	<u>Application (General)</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>11.</u>	<u>SN721531</u>	<u>2022/04/12</u>	<u>Application (General)</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>12.</u>	<u>SN723231</u>	<u>2022/04/26</u>	<u>Notice</u>	<u>The Corporation of the City of Niagara Falls</u>
<u>13.</u>	<u>59R17292</u>	<u>2022/06/13</u>	<u>Plan Reference</u>	
<u>14.</u>	<u>SN754703</u>	<u>2023/01/13</u>	<u>Transfer Easement</u>	<u>Anastasia Georgina Loukas and 2779006 Ontario Inc.</u>
<u>15.</u>	<u>SN754704</u>	<u>2023/01/13</u>	<u>Postponement</u>	<u>Anastasia Georgina Loukas and 2779006 Ontario Inc.</u>
<u>16.</u>	<u>SN754705</u>	<u>2023/01/13</u>	<u>Postponement</u>	<u>Anastasia Georgina Loukas and 2779006 Ontario Inc.</u>
<u>17.</u>	<u>SN754853</u>	<u>2023/01/16</u>	<u>Land Registrar's Order</u>	<u>Land Registrar, Niagara South Land Registry Office</u>
<u>18.</u>	<u>SN763208</u>	<u>2023/04/17</u>	<u>Notice</u>	<u>Anastasia Georgina Loukas and 2779006 Ontario Inc. and La Pue International Inc.</u>

**Schedule “E” – PPSA Registrations to be Released but only in respect of Purchased Assets**

<u>Date of Registration</u>	<u>Secured Party</u>	<u>File Number</u>	<u>Registration Number</u>	<u>Expiry Date</u>
<u>Jun 1, 2022</u>	<u>Newroads Automotive Group Ltd.</u>	<u>783547137</u>	<u>20220601 1259</u> <u>1210 8587</u>	<u>Jun 1, 2026</u>
<u>Nov. 25, 2021</u>	<u>Marshallzehr Group Inc.</u>	<u>778525902</u>	<u>2021125 1518</u> <u>1590 6050</u>	<u>Nov. 25, 2026</u>
<u>Nov. 25, 2021</u>	<u>Marshallzehr Group Inc.</u>	<u>778525911</u>	<u>2021125 1519</u> <u>1590 6051</u>	<u>Nov. 25, 2026</u>
<u>Jan. 26, 2021</u>	<u>The Sovereign General Insurance Company</u>	<u>769461417</u>	<u>20210126 1509</u> <u>1862 9924</u>	<u>Jan. 26, 2032</u>
<u>Oct. 2, 2020</u>	<u>The Sovereign General Insurance Company</u>	<u>766400931</u>	<u>20201002 1508</u> <u>1862 2211</u>	<u>Oct. 2, 2031</u>

MARSHALLZEHR GROUP INC.

- and -

LA PUE INTERNATIONAL INC.

Applicant

Respondent

Court File No. CV-23-00700695-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceedings commenced at TORONTO

**APPROVAL AND VESTING ORDER**

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Lawyers for the Receiver, KSV Restructuring  
Inc.

62749994.1

<b>Summary report:</b>	
<b>Litera Compare for Word 11.9.1.1 Document comparison done on 2024-12-11 11:03:50 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://cloudimanage.com/CM/62753425/1	
<b>Modified filename:</b> Approval and Vesting Order (Lakeshore).doc	
<b>Changes:</b>	
<u>Add</u>	157
<del>Delete</del>	129
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	4
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>290</b>



# TAB 5

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE 18TH DAY  
 )  
JUSTICE MADAM STEELE ) OF DECEMBER, 2024

B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondents

**ANCILLARY AND INTERIM DISTRIBUTION ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets (the “**Property**”) of La Pue International Inc. (the “**Debtor**”) for an order, among other things, (i) approving an interim distribution to MarshallZehr Group Inc. (“**MarshallZehr**”); (ii) approving the Fourth Report of the Receiver dated December 11, 2024 (the “**Fourth Report**”) and the conduct and activities of the Receiver defined therein; and (iii) authorizing the Receiver to establish the Holdback Reserve (as defined below), was heard this day by judicial videoconference via Zoom.

**ON READING** the Motion Record of the Receiver dated December 11, 2024 including the Fourth Report, and on hearing the submissions of counsel for the Receiver, counsel to the Applicant, and such other counsel as were present and on the Counsel Slip, no one else appearing although properly served as appears from the Affidavits of Service of Daisy Jin sworn December 11, 2024, filed.

## DEFINITIONS

1. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Fourth Report.

## HOLDBACK RESERVE

2. **THIS COURT ORDERS** that the Receiver is authorized and directed to establish, hold and maintain a reserve from the net sale proceeds of the Amended Transaction in the amount of \$1,400,000.00 (the “**Holdback Reserve**”) on account of the estimated maximum amount in respect of any construction lien claims (collectively, the “**Lien Claims**” and each a “**Lien Claim**”) that could have priority over the security interest of MarshallZehr against the real property located at 5528 Ferry Street, Niagara Falls, Ontario (the “**Real Property**”) pursuant to section 78(5) of the *Construction Act*, R.S.O. 1990, c. C.30 (the “**Construction Act**”), and the Receiver is authorized and directed to pay from time to time from the Holdback Reserve any amounts in respect of Lien Claims (in aggregate up to the remaining amount held in the Holdback Reserve and in each case in full and final satisfaction of the priority portion of such claim) according to:

- (a) any such amounts that the Receiver determines, with the consent of MarshallZehr and the applicable holder of the Lien Claim, to have priority over the security interest of MarshallZehr against the Real Property pursuant to section 78(5) of the Construction Act; or
- (b) further order of this Court.

## INTERIM DISTRIBUTION

3. **THIS COURT ORDERS** that subject to the Receiver maintaining such reserves as the Receiver deems appropriate for the proper administration of the receivership estate, and the payment by the Receiver of the amounts secured under the Receiver's Borrowings Charge (as defined in the Receivership Order), the fees of the Receiver and its legal counsel, Aird & Berlis LLP and Chaitons LLP, and the Holdback Reserve, the Receiver be and is hereby authorized and directed to distribute MarshallZehr, in respect of its secured claim, the net sale proceeds from the

Amended Transaction, but not to exceed the amount of its secured claim (the “**MZ Interim Distribution**”).

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

- (a) the pendency of these proceedings and receivership proceedings in respect of the Debtor;
- (b) any applications for a bankruptcy order issued pursuant to the BIA in respect of the Debtor and any bankruptcy order issued pursuant to any such application;
- (c) any assignment in bankruptcy made in respect of the Debtor; and
- (d) any provisions of any federal or provincial legislation,

any payment or distributions made pursuant to this Order shall be made free and clear of any and all security interests (whether contractual, statutory or otherwise), 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, and shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Debtor and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

5. **THIS COURT ORDERS** that the MZ Interim Distribution shall not constitute a “distribution” by the Receiver (or any director, officer, employee, agent or other representative of the Receiver), and the Receiver shall not constitute a “legal representative”, “representative” or a “responsible representative” of the Debtor or “other person” for the purposes of Section 159 of the *Income Tax Act* (Canada), Section 117 of the *Taxation Act, 2007* (Ontario), Section 270 of the *Excise Tax Act* (Canada), Sections 46 and 86 of the *Employment Insurance Act* (Canada) .

6. **THIS COURT ORDERS** that the Receiver or any other person facilitating payments and distributions pursuant to this Order shall be entitled to deduct and withhold from any such payment

or distribution such amounts as may be required to be deducted or withheld under any applicable law and to remit such amounts to the appropriate governmental authority or other person entitled thereto as may be required by such law. To the extent that amounts are so withheld or deducted and remitted to the appropriate governmental authority or other person entitled thereto, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order.

#### **APPROVAL OF FOURTH REPORT**

7. **THIS COURT ORDERS** that the Fourth Report and the conduct and activities of the Receiver as set out therein be and are hereby approved, provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize, in any way, such approvals.

#### **GENERAL**

8. **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

9. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

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**MARSHALLZEHR GROUP INC**  
Applicant

- and -

**LA PUE INTERNATIONAL INC.**  
Respondent

Court File No. CV-23-00700695-00CL

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

**Proceedings commenced at Toronto**

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**INTERIM DISTRIBUTION AND**  
**ANCILLARY ORDER**

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# TAB 6

**SERVICE LIST**  
**(as at December 11, 2024)**

Receiver's URL: <https://www.ksvadvisory.com/experience/case/lapue>

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**MARSHALLZEHR GROUP INC.**  
Applicant

- and -

**LA PUE INTERNATIONAL INC.**  
Respondent

Court File No. CV-23-00700695-00CL

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

**Proceedings commenced at Toronto**

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**MOTION RECORD**  
**(Returnable December 18, 2024)**

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