

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

B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**RESPONDING MOTION RECORD**

**DATE:** December 17, 2024

**MANIS LAW**  
2300 Yonge Street, Suite 1600  
Toronto, Ontario M4P 1E4

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Lawyers for the Respondent,  
La Pue International Inc.

**TO: SERVICE LIST**

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# TAB 1

**ONTARIO  
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B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**LA PUE INTERNATIONAL INC.**

Respondent

**AFFIDAVIT OF PAWEL FUGIEL**

I, Pawel Fugiel, of the City of Mississauga, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

- 1) I am the chief executive officer of the respondent corporation, La Pue International Inc. (“**La Pue**”), and as such have knowledge of the matters hereinafter deposed to. Where this information is based on information received from others, I state the source of that information and verily believe that information to be true.
- 2) I am swearing this affidavit in response to the Notice of Motion, Third Report and Fourth Report of KSV Restructuring Inc. (the “**Receiver**” or “**KSV**”) and in opposition to the relief sought therein (the “**Receiver’s AVO Motion**”)
- 3) La Pue is a corporation engaged in real estate development and owns the real property municipally known as 5528 Ferry Street, Niagara Falls, Ontario (the “**Property**”). La Pue acquired the Property for the purposes of developing and constructing three mid-rise buildings consisting of one mixed-use, one hotel and one residential building (collectively, the “**Project**”).



- 4) Prior to these receivership proceedings, La Pue had sold over 350 condominium units (the “**Pre-Sale Units**”) and collected approximately \$31 million in deposits that are currently held in trust with a surety.
- 5) La Pue is opposing the Receiver’s AVO Motion on the following grounds, which are expanded on further herein:
  - i) The Receiver has failed to deal with La Pue in a fair and commercially reasonable manner;
  - ii) The Receiver has failed to consider the two offers submitted by La Pue and further failed to give La Pue a reasonable amount of time to provide proof of funds, despite the Property being listed for sale for close to one year;
  - iii) Instead, the Receiver is seeking to approve a sale transaction with a purchaser that has failed on three separate occasions to pay deposits when required, thereby resulting in the transaction having been terminated and subsequently reinstated, despite La Pue’s offers;
  - iv) The proposed purchaser is not currently registered with the Home Construction Regulatory Authority (“**HCRA**”), thereby precluding it from assuming the 350 Pre-Sale Unit contracts entered into by La Pue and likely resulting in the return \$31 million in deposits to pre-sale purchasers;
  - v) In contrast, La Pue is registered with HCRA and by the Receiver accepting its offer, there would be no need for the termination of the 350 Pre-Sale Unit contracts or the return of \$31 million to pre-sale purchasers;
  - vi) The Receiver was put on notice as early as November 22, 2024 that La Pue would be opposing the Receiver’s AVO Motion;

- vii) La Pue's counsel had requested that the Receiver's AVO Motion materials be served with ample time in order to permit La Pue to prepare responding materials;
- viii) Despite this request, the Receiver's AVO Motion materials were not served until 4:33 on December 11, 2024, being less than seven clear days before the hearing and failing to provide La Pue a sufficient amount of time to respond thereto;
- ix) La Pue's offer is more commercially reasonable and ensures that the 350 Pre-Sale Unit contracts are honoured; and
- x) Alternatively, La Pue should be given an opportunity to payout the indebtedness owed to the Applicant and continue developing the Project.

## **Background**

- 6) Pursuant to a commitment letter dated November 15, 2021, the Applicant agreed to advance a loan in the maximum principal sum of \$12,375,000.00 (the "**Loan**") to La Pue. On or about November 30, 2021, the Applicant advanced \$12 million to La Pue, with a rate of interest of prime plus 7.05% per annum. The Loan was set to mature on January 1, 2023, but was subsequently extended by mutual agreement.
- 7) On or about June 27, 2022, the Applicant agreed to advance the balance of Loan, being \$375,000.00 and the maturity date of the Loan was extended to April 1, 2023.
- 8) The principal sum of the Loan advanced to La Pue is \$12,375,000.00. As of December 18, 2024, the debt claimed by the Applicant totals \$20,790,624.89, which is comprised of \$7,915,624.89 in interest.
- 9) I dispute the amount of interest that has accrued on the Loan and note that in March of 2023, the rate of interest doubled, going from 13.75% to 27.50%, without any notice being given.

## **Lakeshore Offers & Pre-Existing Relationship with La Pue**

- 10) On or about April 4, 2024, the Receiver and Lakeshore Luxe Design & Build Group (“**Lakeshore**”) entered into an Asset Purchase Agreement (the “**Original APA**”) for, among other things, the sale of the Property and the assumption of 359 pre-sale agreements entered into with homebuyers (the “**Original Transaction**”).
- 11) On June 11, 2024, Lakeshore assigned 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**”). Attached hereto and marked as **Exhibit “A”** is a copy of the Purchaser’s Corporate Profile Report.
- 12) Lakeshore entered into the Assignment Agreement due to a pre-existing contractual relationship it had with La Pue. In or around October of 2023, La Pue and Lakeshore discussed a potential joint venture for the Project and Property, such that Lakeshore would obtain financing to pay out the indebtedness owed by the Respondent to the Applicant and finance future construction on the Project.
- 13) On November 4, 2023, Lakeshore and La Pue entered into a Non-Disclosure Agreement wherein the parties agreed to a Non-Circumvention clause which prohibited Lakeshore or its principal from approaching the Receiver or Applicant in relation to the Property or Project. Attached hereto and marked as **Exhibit “B”** is a copy of the signed Non-Disclosure Agreement.
- 14) On November 8, 2023, Lakeshore circulated a Memorandum of Understanding to confirm the business terms and conditions of the joint venture partnership. In the email attaching the Memorandum of Understanding, Lakeshore’s chief operating officer, Michael Azan, also known as Michael Hyman (“**Azan**”), confirmed that he was moving forward with

project financing to payout the Applicant. Attached hereto and marked as **Exhibit “C”** is a copy of the email and Memorandum of Understanding.

- 15) On January 18, 2024, Azan sent me a follow up email advising that he had secured financing for the Project and attached a letter of intent setting out the relevant terms and conditions that the loan facilitator, RCA Financial Services Inc. (“**RCA**”) had. Attached hereto and marked as **Exhibit “D”** is a copy of the email correspondence sent by Azan and the letter of intent attached thereto.
- 16) RCA followed up with the Applicant’s office on February 5, 2024 to request a payout statement. Thereafter, RCA was put in touch with the Receiver who requested a commitment letter from RCA. On February 17, 2024, Azan forwarded me the email correspondence between RCA, the Applicant and Receiver.
- 17) In Azan’s February 17, 2024 email, he confirmed that he had received a mortgage discharge statement from the Receiver and that he would be disputing part of the wrap up calculation. However, Azan confirmed that once the discharge statement was received, a financing agreement would be issued and a construction credit facility provided by BMO. Attached hereto and marked as **Exhibit “E”** is a copy of this email correspondence.
- 18) When I learned that Lakeshore had entered into the Original APA with the Receiver, I was both blindsided and shocked given the ongoing discussions we were having and previous agreements that were executed. I also note that by entering into the Original APA, Lakeshore breached the Non-Circumvention clause of the Non-Disclosure Agreement and as such, had to enter into the Assignment Agreement with the Purchaser. However, the sole officer and director of the Purchaser corporation is also an authorized signing officer for

Lakeshore and has entered into other agreements on behalf of Lakeshore, at least one of which failed to close, as particularized below.

- 19) On June 12, 2024, while this receivership proceeding was ongoing and after Lakeshore had submitted the Original APA, Lakeshore submitted an agreement of purchase and sale in another receivership proceeding, bearing court file number CV-23-00701672-00CL between *Cameron Stephens Mortgage Capital Ltd. v. Conacher Kingston Holdings Inc. and 5004591 Ontario Inc.* (the “**Cameron Stephens Action**”).
- 20) On July 24, 2024, the Honourable Justice Cavanagh granted an approval and vesting order in the Cameron Stephens Action, pursuant to the agreement of purchase and sale executed between the receiver, TDB Restructuring Limited, and Lakeshore, in trust. Attached hereto and marked as **Exhibit “F”** is a copy of that Approval and Vesting Order.
- 21) In reviewing the agreement of purchase and sale submitted by Lakeshore in the Cameron Stephens Action, I note that it was submitted on behalf of Lakeshore by Anthony De Francesco, the same officer and director as the Purchaser in this proceeding as confirmed by the Corporate Profile Report previously appended hereto.
- 22) On page 23 of the agreement of purchase and sale submitted by Lakeshore in the Cameron Stephens Action, Francesco’s address for service is the same as Lakeshore and Francesco signs as an authorized signing officer of Lakeshore on page 28 and again on page 40. Attached hereto and marked as **Exhibit “G”** is a copy of the agreement of purchase and sale submitted by Lakeshore in the Cameron Stephens Action.
- 23) Despite receiving the approval and vesting order, Lakeshore was unable to close the transaction. At paragraph 4 of the receiver’s third report dated November 25, 2024 in the Cameron Stephens Action, it is expressly noted that the transaction with Lakeshore was set

to close on July 30, 2024 and despite “a series of extensions, Lakeshore Lux was unable to close the transaction” and the property had to be remarketed. Attached hereto and marked as **Exhibit “H”** is a copy of the aforementioned receiver’s third report in the Cameron Stephens Action.

- 24) Lakeshore’s inability to close the transaction in the Cameron Stephens Action occurred contemporaneously with the Purchaser’s inability to pay deposits on time in this action, as all these corporations are closely connected through common ownership.

### **Receiver’s Third Report**

- 25) On June 17, 2024, the Receiver filed its Third Report to Court recommending that, among other things, the Court approve the Original Transaction. The Court approved the Original Transaction on June 21, 2024 (the “**Sale Approval Order**”).
- 26) However, the Purchaser failed to close on the Original Transaction and since then has failed to close on two subsequent occasions thereafter.
- 27) The Original Transaction was scheduled to close on July 2, 2024. Despite paying the first deposit of \$500,000.00 to the Receiver, the Purchaser failed to pay the second deposit as required. Although the Purchaser did not pay the second deposit, the Receiver proceeded to obtain an approval and vesting order from the Court to compel the Purchaser to complete the transaction or forfeit the deposit of \$500,000.00.
- 28) On July 2, 2024, the Receiver tendered closing documents but the Purchaser failed to pay the balance of the closing funds. On July 4, 2024, the Receiver formally terminated the Original Transaction.
- 29) Thereafter, the Receiver and Purchaser entered into a Reinstatement and Amendment Agreement, whereby the Purchaser was required to, among other things, pay a second

deposit by July 11, 2024, a third deposit by July 22, 2024 and a fourth deposit by August 1, 2024, and the closing date would be extended to September 6, 2024.

- 30) The Purchaser paid the second deposit but failed to pay the third or fourth deposit to the Receiver. Once again, the transaction was terminated.
- 31) Despite the Purchaser's repeated failures to pay deposits when due, the Receiver entered into a Second Reinstatement and Amending Agreement on October 8, 2024. The Second Reinstatement and Amending Agreement required the Purchaser to pay the Receiver an additional deposit within one day. For a third time, the Receiver had to terminate the transaction with the same Purchaser because of a failure to pay the deposit.
- 32) Notwithstanding the Purchaser's inability to close the transaction on three separate occasions, the Receiver entered into a Third Reinstatement and Amending Agreement with the Purchaser and the Applicant agreed to finance the balance of the purchase price.
- 33) The Applicant agreed to finance part of the purchase price despite the Purchaser's repeated failure to pay deposits. Similarly, the Applicant's willingness to finance part of the purchase price was to the Respondents detriment, who was actively seeking to submit offers or reclaim the Property. Rather than working to assist the Respondent, the Applicant actively sought to ensure the Property got sold to the Purchaser.
- 34) On November 18, 2024, the Receiver and Purchaser executed the Third Reinstatement and Amending Agreement, despite La Pue submitting an offer that very same day, as will be detailed further herein.
- 35) The Receiver has also noted that the Purchaser has not yet obtained HCRA approval, which it has 90 days to do after closing. As previously mentioned herein, HCRA approval is

necessary for the Purchaser to assume the 350 Pre-Sale Unit contracts. If the Purchaser is unable to obtain HCRA approval, all the 350 Pre-Sale Unit deposits must be refunded.

- 36) In order to obtain HCRA approval, the Purchaser is required to have high-rise construction expertise.
- 37) The Purchaser was incorporated on May 10, 2024 and there is no evidence provided to suggest that the Purchaser has the necessary high-rise construction expertise required to obtain HCRA approval. The Purchaser has had since June 11, 2024, the date the Assignment Agreement was entered into by Lakeshore and the Purchaser, to obtain the HCRA approval, but still to this date has not been able to do so.

#### **La Pue's Offers**

- 38) On August 7, 2024, I emailed the Receiver and asked whether the Original Transaction with Lakeshore was terminated. In response, the Receiver advised that the transaction had been terminated.
- 39) On or about September 20, 2024, I submitted, on behalf of a corporation to be incorporated, an offer to purchase the Property (the "**First Offer**"). On September 22, 2024, the Receiver advised that there was another offer in hand and asked that I produce evidence that of financial capability to close the transaction. On September 23, 2024 the Receiver advised that in order to consider the First Offer, the Receiver would need to see proof of financing and an unconditional commitment letter before the end of day.
- 40) On September 30, 2024, I was advised that the Receiver was reviewing another agreement and asked that I provide proof of funds by the following day. In response, my counsel advised the Receiver that we needed a few more days to finalize the commitment letter with its prospective lender and that we wanted the Project back.



- 41) On October 8, 2024, counsel for the Receiver advised that the Receiver had accepted another offer and would proceed to Court on November 12 or 13, 2024 to approve the offer. On October 25, 2024, I asked Receiver's counsel to provide the motion materials for the November 12, 2024 date. On October 28, 2024, the Receiver's counsel advised that the Purchaser had failed to comply with the conditions of the agreement and as such, that offer was terminated and the Property would be relisted for sale.
- 42) In response, I asked the Receiver's counsel why this information was not shared sooner, given the fact that I had previously submitted the First Offer to purchase the Property. In response, counsel for the Receiver advised that in order for the First Offer to be considered, the Receiver would require evidence that it had the financial ability to close the transaction. This was notwithstanding the fact that as of October 28, 2024, the Purchaser had already failed to close three times due to the fact it could not pay the deposits required. Attached hereto and marked as **Exhibit "I"** is a copy of the aforementioned email correspondence from August 7-October 28, 2024.
- 43) On November 2, 2024, I sent the Receiver and its counsel an email attaching a new and increased offer of \$20,500,000.00 and confirmed that proof of financing would be sent shortly (the "**Second Offer**").
- 44) The following day, my counsel sent proof of financing and advised that, upon the lender completing its due diligence, a firm commitment letter would be received within 14 days or so. In response, the Receiver advised that it had a bad experience with the prospective lender we were in negotiations with but to advise if the deal went firm. Attached hereto and marked as **Exhibit "J"** is a copy of this email correspondence.

- 45) Due to the Receiver's past bad experiences with the first prospective lender, I continued my negotiations with other lenders so as to ensure that my offer was acceptable to the Receiver.
- 46) On November 12, 2024, my counsel advised the Receiver and its counsel that a firm commitment for financing would be submitted shortly and if there were any deadlines or timing issues, that we be advised. In response, Receiver's counsel advised that it had received an offer that was being considered and if the Second Offer was to be considered, proof of funds by 4:00PM on November 13, 2024 would need to be provided.
- 47) On November 13, 2024 my counsel advised that it was "confused and perplexed why there is no transparency in the sale of the subject property" despite the fact that La Pue had made two offers to purchase the Property and that La Pue was "diligently working on firming up the financing for the purchase of the property and has two interested parties, one of which is well known in Toronto".
- 48) Receiver's counsel again advised that the Second Offer would not be considered without evidence that it had the financial ability to close the transaction. In response, my counsel advised that it expected a firm and binding commitment with proof of funds by the end of the weekend, being Sunday, November 17, 2024 and asked that the Receiver not make a decision in respect of the sale of the Property until Monday, November 18, 2024. Attached hereto and marked as **Exhibit "K"** is a copy of this email correspondence from November 12-13, 2024. There was a substantial amount of pressure to produce proof of funds in a very short period of time.
- 49) On November 14, 2024, counsel for my prospective lender, CDS Financial Group Inc. together with Fiducia Ventures Inc. (collectively, the "**Lender**"), advised that it was

preparing an expedited draft loan commitment and upon approval and execution of same, proof of funds would be provided.

- 50) On November 15, 2024, counsel for the Lender confirmed that it was finalizing the commitment letter and a copy of same would be sent out later that day. This email was forwarded to counsel for the Receiver, a copy of which is attached hereto and marked as **Exhibit “L”**.
- 51) On November 15, 2024, my counsel sent the Receiver and its counsel a signed commitment letter. Attached hereto and marked as **Exhibit “M”** are copies of this email correspondence.
- 52) In response, the Receiver advised that the commitment letter had numerous conditions and asked that the Lender confirm that it would be unconditional. In response, my counsel advised that an unconditional commitment and proof of funds would be submitted to the Receiver shortly. Attached hereto and marked as **Exhibit “N”** are copies of this email correspondence.
- 53) On November 20, 2024, the Lender confirmed receipt of the executed engagement letter and that an updated commitment letter would be circulated the following day, confirming that the conditions had been satisfied and proof of funds would also be attached. This email was forwarded to the Receiver. Attached hereto and marked as **Exhibit “O”** is a copy of this email correspondence.
- 54) On November 21, 2024, we sent an executed copy of its commitment letter and proof of funds to the Receiver, and confirmed that the conditions had been satisfied/waived. Attached hereto and marked as **Exhibit “P”** is a copy of this email correspondence and

commitment letter. Later that same day, proof of funds were sent to the Receiver, a copy of which is attached hereto and marked as **Exhibit “Q”**.

- 55) In order to provide an updated proof of funds, the Lender requested payment of a non-refundable work fee of \$55,000.00 plus a deposit of \$200,000.00 held in trust by the Lender. Given that the Second Offer had not yet been accepted by the Receiver and there was no guarantee that it would be accepted, a payment of \$255,000.00 to the Lender was a large risk. Attached hereto and marked as **Exhibit “R”** is a copy of the Advisory Services Agreement evidencing the foregoing conditions that needed to be satisfied.
- 56) As such, my counsel sent an email to the Receiver and its counsel requesting confirmation that the Second Offer was acceptable so that I could pay the non-refundable work fee of \$55,000.00 plus a deposit of \$200,000.00 to the Lender and obtain proof of funds. Without confirmation from the Receiver that the Second Offer was acceptable, I would not endeavor to make such a payment to the Lender. Attached hereto and marked as **Exhibit “S”** is a copy of this email correspondence.

### **Scheduling**

- 57) On November 22, 2024, counsel for the Receiver confirmed that it had entered into a transaction for the sale of the Property and asked whether La Pue would be opposing the sale. In response, counsel for La Pue advised that it would likely be opposing the Receiver’s motion. Attached hereto and marked as **Exhibit “T”** is a copy of this email correspondence.
- 58) On November 27, 2024, counsel for La Pue confirmed that it would be opposing the Receiver’s motion and asked that the Motion Record be served with ample time to respond

thereto. Attached hereto and marked as **Exhibit “U”** is a copy of this email correspondence.

- 59) On December 8, 2024, counsel for La Pue confirmed again that it would be opposing the Receiver’s motion for an approval and vesting order and requested that it be served with the motion materials with ample time to respond thereto.
- 60) On December 10, 2024 La Pue’s counsel inquired with counsel for the Receiver again asking when the Receiver’s motion materials would be served as La Pue would need time to prepare responding materials. Attached hereto and marked as **Exhibit “V”** is a copy of this email correspondence.
- 61) It was not until late in the day on December 11, 2024 that we received the Receiver’s AVO Motion material, leaving us with an insufficient amount of time to review and respond thereto.

### **Conclusion**

- 62) This Property has been for sale for about one year. The only parties interested in purchasing the Property/Project are La Pue and Lakeshore/the Purchaser. Of the two interested parties, the Purchaser has failed to close the Original Transaction on three separate occasions and still does not have HCRA approval to date.
- 63) In contrast, La Pue has diligently followed up with the Receiver throughout this proceeding, submitted multiple offers and made every effort to provide proof of funds to expeditiously satisfy the Receiver’s request.
- 64) The Receiver has never advised La Pue that its purchase price was inadequate or needs to be increased to be considered. Despite this, La Pue was never given a fair chance or opportunity to have its offer submitted with the supporting proof of funds.

- 65) Rather than waiting to receive La Pue's proof of funds and in light of the Second Offer that had been submitted, the Receiver proceeded to enter into the Third Reinstatement and Amending Agreement with the Purchaser, despite its repeated failures to close the Original Transaction.
- 66) My Lender, CDS Financial Group Inc. has confirmed as recently as December 16, 2024 that the required funds are still available for my Second Offer, Proof of Funds were sent on November 21, 2024 and that they are prepared to transfer the funds to their lawyer's trust account. Attached hereto and marked as **Exhibit "W"** is a copy of that email correspondence.
- 67) If the Receiver's AVO Motion is granted and the Sale Transaction is approved, there is a possibility that more than 350 Pre-Sale Unit contracts will be terminated and these purchasers will lose out on an opportunity to own condominium units that they had purchased years prior.
- 68) In light of the Purchaser's failure to close the Original Transaction on three separate occasions, coupled with its lack of HCRA approval, I believe that the most commercially reasonable solution is that La Pue's offer be accepted, or alternatively, La Pue be given an opportunity to payout the indebtedness owed to the Applicant and complete the Project as planned.

69) I swear this affidavit in response and opposition to the Receiver's AVO Motion and for no other or improper purpose.

SWORN remotely by PAWEL FUGIEL stated )  
to be at the City of Mississauga in the Province )  
of Ontario before me at the City of Markham, in )  
the Province of Ontario on December 17, 2024 )  
in accordance with O.Reg. 431/20, )  
Administering Oath or Declaration Remotely. )



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Commissioner for Taking Affidavits  
M. D'Souza



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PAWEL FUGIEL

**Exhibit "A"**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza". The signature is written in a cursive style with a prominent loop at the end.

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Commissioner for Taking Affidavits





## Profile Report

1000835091 ONTARIO INC. as of December 16, 2024

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	1000835091 ONTARIO INC.
Ontario Corporation Number (OCN)	1000835091
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	May 10, 2024
Registered or Head Office Address	7500 Highway 27, Suite 4, Woodbridge, Ontario, L4H0J2, Canada

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

**Active Director(s)**

Minimum Number of Directors 1  
Maximum Number of Directors 10

Name ANTHONY DE FRANCESCO  
Address for Service 7500 Highway 27, Suite 4, Woodbridge, Ontario, L4H0J2,  
Canada  
Resident Canadian Yes  
Date Began May 10, 2024

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

**Active Officer(s)**

There are no active Officers currently on file for this corporation.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

**Corporate Name History**

**Name**

1000835091 ONTARIO INC.

**Effective Date**

May 10, 2024

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

*V. Quintanilla W.*

Director/Registrar

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### Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

### Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

**Document List**

**Filing Name**

BCA - Articles of Incorporation

**Effective Date**

May 10, 2024

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

**Exhibit “B”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "S.W. Souza". The signature is written in a cursive style with a long, sweeping underline.

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Commissioner for Taking Affidavits



# NDA

This Non-Disclosure Agreement ("Agreement") is made as of November 4, 2023, by and between LA PUE INTERNATIONAL INC., with an office at 6158 Allendale Ave., Niagara Falls, ON, represented by Mr. Pawel Fugiel, Executive Director ("**Disclosing Party**"), and LAKESHORE LUXE DESIGN & BUILD GROUP with an office at 200-99 Yorkville Avenue Toronto, Ontario | Canada M5R 3K5, represented by Michael A. Azan ("**Receiving Party**").

**Whereas**, the Disclosing Party possesses certain proprietary and confidential information relating to the Stanley District project located at 5528 Ferry Street, Niagara Falls, ON (the "**Project**"), and the Receiving Party has expressed an interest in evaluating this information concerning a potential investment and partnership with the Disclosing Party for the Project.

**Now, therefore**, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

- 1. Confidential Information:** "Confidential Information" includes all data, documents, discussions, or disclosures from the Disclosing Party that are not publicly known and related to the Project and Disclosing Party.
- 2. Use of Confidential Information:** The Receiving Party agrees to use the Confidential Information solely for evaluating the potential partnership for the Project and not for any other purpose.
- 3. Non Disclosure:** The Receiving Party agrees not to disclose, divulge, or communicate any Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 4. Non-Circumvention:** Both parties agree not to independently engage in or conduct business with contacts introduced by the other party during the due diligence process for the Project without the introducing party's written consent, for greater clarity and specificity, Michael A. Azan and LAKESHORE LUXE DESIGN & BUILD GROUP and any parties introducing and receiving information or documentation will not approach the receiver or the lender in relation to the property and project herein referred to without the notification and express consent of La Pue International Inc. or Pawel Fugiel.
- 5. Return or Destruction of Information:** Upon the conclusion of the discussions or request, the Receiving Party shall return or destroy all copies of the Confidential Information.

6. **No Binding Obligation:** This Agreement is not a commitment or promise to proceed with any business arrangement or partnership but only an agreement to explore such possibilities.
7. **Term:** The term of this Agreement shall commence on the date of this Agreement and shall continue in full force and effect until the earlier of the date on which the Confidential Information becomes publicly known through no fault of the Receiving Party or one years from the date hereof.
8. **Miscellaneous:** This Agreement shall be governed by the laws of the Province of Ontario and may be executed in counterparts, each of which shall be deemed an original.
9. **GoodFaith:** Each party agrees to acting good faith in their dealings with one another during the term of this Agreement. This includes entering discussions concerning the potential partnership with honest intentions, maintaining transparency as far as reasonably possible, and making a sincere effort to move forward with negotiations and due diligence activities in a manner that is constructive and respectful of each party's interests.

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

**LA PUE INTERNATIONAL INC.**

By :  \_\_\_\_\_ November 4, 2023

Name: Mr. Pawel Fugiel  
Title: Executive Director

**LAKESHORE LUXE DESIGN & BUILD GROUP**

By :  \_\_\_\_\_ November 4, 2023

Name: Michael A. Azan  
Title: Chief Operating Officer

**Exhibit “C”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza". The signature is written in a cursive style with a prominent loop at the end.

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Commissioner for Taking Affidavits

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**From:** Michael <michael@lakeshoreluxe.ca>  
**Sent:** Wednesday, November 8, 2023 9:49 PM  
**To:** Pawel Fugiel; Danny Tito; Jason Pelaccia  
**Cc:** Michael; Justin  
**Subject:** Business Terms - Notes (Stanley District Development)  
**Attachments:** Letterhead - Lakeshore Luxe - Ferry St Terms and Conditions.docx; Letterhead - Lakeshore Luxe - Ferry St Terms and Conditions.pdf

Good evening Gentlemen,

1. As discussed, based on our meetings and understanding of the general **Business Terms**, please see the attached **notes** therefore everyone is on the same page.
2. My lawyer will commence drafting the **FORMAL Joint-Venture Agreement**. This should be completed in the coming days.
3. I am moving forward with the project financing to payout Marshall Zher, Buttcon, and the remaining applicable Trades.
4. Next in line will be the Project Tranches for Construction. SkyGrid will prepare their Takeoffs and Trancing schedules so I can discuss in detail with the funding partners advancing the Construction credit facility.

For any questions, please advise upon your earliest availability.

Thank you.

Lakeshore Luxe Design & Build Group

**Address:** 200 – 99 Yorkville Avenue, Toronto, ON M5R 3K5

**Office:** (365) 799-5763

**Direct:** (437) 290-6467

**Email:** michael@lakeshoreluxe.ca



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**LAKESHORE LUXE DESIGN & BUILD GROUP**

200-99 Yorkville Avenue

Toronto, Ontario | Canada M5R 3K5

Office: (365) 799-5763 | Email: [info@lakeshoreluxe.ca](mailto:info@lakeshoreluxe.ca)



**Delivered via electronic mail.**

**PRIVATE AND CONFIDENTIAL.**

November 8<sup>th</sup>, 2023.

Attention: La Pue International Inc.  
Pawel Fugiel  
6158 Allendale Avenue  
Niagara Falls, ON  
L2G 0A5 Canada  
Direct: (647) 705-9810  
Email: [lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)

**MEMORANDUEM OF UNDERSTANDING**

**Re: 5528 Ferry Street – The Stanley District Development [Building ‘A’, Building ‘B’, Building ‘C’]**

On behalf of Lakeshore Luxe Design & Build Group and its collective Partners (the “Partnership Group”), presented to La Pue International Inc (the “Vendor”), this letter, Memorandum of Understanding is to confirm the discussed and agreed upon business Terms and Conditions said forth between the Joint-Venture Partners consolidating into the New Joint Venture Corporation (the “JVC”).

1. **Partnership Group:** defines the consolidated partners represented as “SkyGrid Construction”, “Biltmore Construction”, “White Horse Investments” and “Lakeshore Luxe Design & Build Group”.
2. **Joint Venture Corporation:** defined as the New Joint Venture company whereas the Partnership Group and La Pue International Inc are beneficial owners of the entire subject development project located at 5528 Ferry Street, Niagara Falls, Ontario. The subject development project consists of three (3) phases primarily informally defined as “Building A”, “Building B”, and “Building C”.

## LAKESHORE LUXE DESIGN & BUILD GROUP

200-99 Yorkville Avenue

Toronto, Ontario | Canada M5R 3K5

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3. **Vendor:** defined as La Pue International Inc, original owner.
4. **Joint Venture Profit-Sharing Split:** 50% allocated to the Vendor, and 50% allocated to the Partnership Group.
5. **Profit Share Distributions:** The Vendor's 50% Profit Share Distribution will have Priority Ranking over the Partnership Groups' 50% Profit Share Distribution.
6. **Capital Ranking Distributions:** The Project Financing will be discharged and repaid in full. Once all project debts have been repaid in full agreed by the Vendor and the Partnership Group, next in line will be the Vendor's 50% Profit Share Distribution that has priority over the Partnership Group. Once the Vendor has realized its 50% Profit Share Distribution, next in line *Pari Passu* will be the Partnership Groups 50% Profit Share Distribution.
7. **Liabilities to be Discharged on Closing:** The Partnership Group led by Lakeshore Luxe Design & Build Group will secure Project Financing through Park Place Wealth Management. Park Place is commissioned to secure all Project Financing that will discharge the current liabilities on Title, to include securing all Construction Financing to complete "Building A", "Building B", and "Building C".
8. **Estimated Liabilities to be discharged on Closing:** Should not exceed CDN\$20Million (Twenty Million Canadian Dollars) comprised of the existing Land Financier (the "Marshall Zher"), the existing General Contractor (the "Buttcon"), and any remaining Trades (the "Trades") to be confirmed prior to Closing.
9. **Vendor Equity Take-out (the "ETO"):** The Vendor's Equity Take-out (the "ETO") should NOT exceed CDN\$10,000,000.00 (Ten Million Canadian Dollars) withdrawn and payable to the Vendor from the Closing proceeds pending the Banks Approval. Based on the revised and current Appraisal Report, this should be in line with the lending approvals Park Place Wealth Management will arrange and secure. Considering the Financier's Approval, the Partnership Group has agreed to pay from the Proceeds to the Vendor, the CDN\$10,000,000.00 (Ten Million Canadian Dollars) Equity Take-out (the "ETO").
10. **Construction Management (the "CM"):** The Vendor and the Partnership Group agree that SkyGrid Construction will be the exclusive Construction Manager for the subject development project for all three (3) phases, "Building A", "Building B", and "Building C". The Vendor and the Partnership Group agreed that SkyGrid Construction will charge a CM Fee based on the agreed upon Project Budget.



## LAKESHORE LUXE DESIGN & BUILD GROUP

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11. **Development Manager (the “DM”):** The Vendor and the Partnership Group agree that “La Pue International”, “Lakeshore Luxe Design & Build Group” and “Biltmore Construction” will be the exclusive Development Managers for the subject development project for all three (3) phases, “Building A”, “Building B”, and “Building C”. The Vendor and the Partnership Group agreed that “La Pue International”, “Lakeshore Luxe Design & Build Group” and “Biltmore Construction” will charge a DM Fee based on the agreed upon Project Budget.
12. **Project Financing:** The Vendor and the Partnership Group agree that “Park Place Wealth Management” is commissioned to secure Project Financing for all three (3) phases consisting of “Building A”, “Building B”, and “Building C”.
13. **Branding and Marketing:** The Vendor and the Partnership Group agreed to allow the CM and DM to brand the project with on-site branding signage, online digital marketing, and print advertising with the consent and written approval by the Vendor and the Partnership Group. The Branding and Marketing materials by the CM and DM should NOT create any disturbances to the project and or create any credibility concerns collectively.
14. **Project Accounting and QS:** It is disclosed that the Gylnn Group is the current Quantity Surveyor of record. Unless otherwise proposed, it is understood that Gylnn Group will remain as the QS of Record.
15. **Borrower:** The existing Borrower disclosed by the Vendor is “La Pue International Inc”. The Partnership Group and the Vendor will discuss what is the best legal structure to proceed forward as the “New Borrower” that will sign for the new Project Financing. Discussions to date have been to have a “NewCo” or “JVC” as the Borrower, and the Shareholders will have Shares respective to the Borrower. All parties have agreed to consult with the lawyers to determine what is the best and most compliant structure for all parties.
16. **Shareholders:** The Shareholders and or companies that will have an Equity interest in the subject development project are as follows; The Vendor and the Partnership Group.
17. **Shotgun Clause:** The Vendor and the Partnership Group agree there will be NO Shotgun provisions within the Joint Venture Agreement.
18. **Independent Legal Advice:** The Vendor and the Partnership Group all agree that each company will retain its own separate and independent legal counsel to provide Independent Legal Advice on all project related documents and matters.

## LAKESHORE LUXE DESIGN & BUILD GROUP

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19. **Joint Venture Corporation Legal Advisory:** The Borrower or JVC company that will hold Title to the asset will have its own independent legal counsel to provide Independent Legal Advice to the Shareholders and all parties that have an Equity Interest in the project.
20. **Pre-Sales:** It is understood that the project is currently 83% Pre-Sold. Based on the confirmation of sales being accurate, the representation of 83% Pre-Sold units will remain Pre-Sold and the balance of 17% Units Unsold will go to market based on the agreed upon timing by the Shareholders.
21. **Sales and Marketing Team:** The Shareholders will discuss to either keep the retained Sales Brokerage in place commissioned to complete the balance of Unsold units for “Building C”, or do the Shareholders agree to elect and commission a new Sales Brokerage. This is not determined as of yet.
22. **Purchaser’s Deposits:** The estimated 83% Pre-Sold units Purchasers Deposit are being currently held at the Bank of Montreal Trust Account of “Sullivan Mahoney LLP”. The Shareholders have not yet agreed to retain new counsel. To date, it is understood that “Sullivan Mahoney LLP” will remain as the Project Counsel holding the Pre-Sold Deposits In-Trust at Bank of Montreal.
23. **SkyGrid Profit Sharing Distribution:** It is disclosed and agreed upon by the Vendor and the Partnership Group that SkyGrid Construction will retain ownership of all three (3) phases of the subject development project. SkyGrid ownership will be defined by way of a Schedule to its CCDC Contract, either 5A, 5B, 2, or 14.
24. **Project Financing Gaurantors:** It is agreed by the Vendor and the Partnership Group that the parties providing the bank required covenants are as follows; “La Pue International”, “Lakeshore Luxe Design & Build Group”, “White Horse Investments”, and “Biltmore Construction”. SkyGrid Construction will be omitted from the bank required covenants for the Project Financing.
25. **Construction Manager (the “CM”) Covenants:** SkyGrid Construction will provide its typical Construction Manager Bonding and Insurance requirements in line with industry standards. For any additional requests made by the Shareholders, that will be on a “to be determined” basis with final approval given by SkyGrid Construction.
26. **Contract Pricing:** It is agreed that all Shareholders will review all Project Contracts before finalizing any Contracts.



**Exhibit “D”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "S.W. Souza". The signature is written in a cursive style with a large, stylized initial "S".

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Commissioner for Taking Affidavits

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**From:** Michael <michael@lakeshoreluxe.ca>  
**Sent:** Thursday, January 18, 2024 8:17 PM  
**To:** Pawel Fugiel  
**Cc:** Michael; Danny Tito; Jason Pelaccia  
**Subject:** Stanley District - Project Financing (attached)  
**Attachments:** Project Financing 'A'B' Capital Raise - 5528 Ferry Road -The Stanley Project 2024 final[68].pdf

Good evening Pawel,

I hope your travels are going very well.

Please see the details below, in addition to the secured Project Financing.

Upon your arrival back in Toronto, please advise what date and time works best to meet at SkyGrid's office.

1. As discussed in our meeting, after many lengthy meetings with our Schedule 'A' Bank and Syndication Capital Partners located here in Toronto, I have successfully raised the following funds which are advanced in **two (2) tranches**. The lead bank is a Schedule 'A' Big 6 Financial Institution. The 'B' Piece Capital Partner is a Mezzanine Lender, both are publicly traded companies.

**Tranche No.01 - CAD\$45,000,000.00 (secured)**

**Tranche No.02 - CAD\$180,000,000.00 (secured)**

**Total Project Financing CAD\$225,000,000.00 (secured)**

2. **Lakeshore Luxe Design & Build Group alongside its Partnership Group will be providing the Bank Guarantees** for the loan as itemized in the Financing Letter of Intent (LOI).
3. **La Pue International and its Partners were NOT discussed to provide the Personal Guarantees.** We will discuss this topic in-person at our meeting. The Project Financing has been secured solely from our covenant.
4. Once your lawyer and yourself are finished reviewing the Project Financing, **we would like to discuss in-person any questions you may have.**
5. We will execute the Project Financing and issue the Retainer to commence underwriting at the Schedule 'A' Bank and Syndication Capital Partners.
6. The Lender is available for fund verification if you and your lawyer wish to have a phone call. Please advise and I will coordinate the meeting.
7. Please note, we do NOT want you to shop our financing deal.
8. **Once we are in collective agreement between Partners, we can close our Financing Tranche No.01 Mid to later February 2024.**
9. **Tranche No.02 will close and fund 90-days Post Closing of Tranche No.01.**

We will await your response and safe travels back to Toronto.

Thank you.



Chief Operating Officer  
**Lakeshore Luxe Design & Build Group**

**Address:** 200 – 99 Yorkville Avenue, Toronto, ON M5R 3K5

**Office:** (365) 799-5763

**Direct:** (437) 290-6467

**Email:** michael@lakeshoreluxe.ca



LAKESHORE LUXE  
DESIGN & BUILD GROUP

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# RCA Financial Services Inc.

January 18, 2024

Lakeshore Luxe Design & Build Group Inc. and All.  
5528 Ferry Street  
Niagara Falls, Ontario  
Canada, L9T 0N1

Via email:

## LETTER OF INTENT (“Proposal”)

### 5528 Ferry Street, Niagara Falls / The Stanley District

Pursuant to the review of the information submitted to us regarding 5528 Ferry Street, Niagara Falls / The Stanley District, we, RCA Financial Services Inc. (“**RCA**”) (the “**Lead Arranger**”), have the pleasure in setting out the terms and conditions upon which we have arranged a loan Facility up to \$45 Million (the “**Facility**”), described in the attached indicative summary of terms and conditions (the “**Illustrative Term Sheet**”) to be provided to Lakeshore Luxe Design & Build Group Inc. and All (the “**Company**”) and subsidiaries, (the “**Project Companies**”) (together, the “**Borrowers**”) in relation to the financing as outlined in the executive summaries provided to date.

The following Summary of Terms outlines (*for discussion purposes only*) the key terms and conditions of a more complete transaction. This Summary of Terms is not intended to be a comprehensive list of all relevant terms and conditions of the transaction contemplated herein. Further, these terms are subject to completion of due diligence, legal and financial reviews and receipt of related approvals and other procedures customary of a transaction of this nature. This Proposal is not to be construed as a final commitment of any kind and is intended for the sole benefit of the Company and shall not be relied upon by any other person.

### Illustrative Summary Terms & Conditions

*The following Illustrative Summary Terms and Conditions (“Term Sheet”) is for discussion purposes only and nothing expressed or implied herein shall be construed as an offer to arrange or provide financing. Any such commitment shall be advised separately and is subject to the terms of the Commitment Letter to be provided by the Lender.*

**EXPIRATION DATE:** This letter of interest shall expire at the close of Business on January 26 2024, and shall be of no force thereafter unless fully executed and received by then.

**PROJECT NAME:** 5528 Ferry Street Niagara Falls / The Stanley District

**APPLICANT:** Lakeshore Luxe Design & Build Group Inc. and All and its Key Principals as Owners and Borrowers, which shall be an entity controlled by the Key Principals in form and format acceptable to the Lender (s).

# *RCA Financial Services Inc.*

<b>LOANS TYPE:</b>	Secured Debt Facilities
<b>LOAN AMOUNT 1:</b>	Up to \$45,000,000 CAD. Estimated amount based upon the assumed interest rate and project budget indicated in the Borrower provided materials as of today's date. The loan amount is subject to the total Operating Statement, Lender's due diligence and subject to terms and conditions outlined herein.
<b>LOAN AMOUNT 2:</b>	Up to \$180,000,000 CAD. Estimated amount based on cost to complete of the entire project budget indicated in the Borrower Provided materials as of today's date. Such loan facility is subject to the total operating Statement. Lender's due diligence and subject to terms and conditions outlined herein.
<b>LOAN TERM:</b>	The term of the facility will be 36 months depending on the loan product and Project Completion
<b>LOAN STRUCTURE:</b>	First Lien Position on specific assets.
<b>LOAN DETAILS AND USES:</b>	<p>It is understood that this proposal will be funded in various steps and as proposed:</p> <ul style="list-style-type: none"><li>a) \$22,300,000 to refinance the current mortgage in first position with Marshall Zehr and all related costs.</li><li>b) \$10,000,000, for Shareholder's buyout and all related costs</li><li>c) \$7,700,000 for mobilization costs and letter of credits</li><li>d) \$5,000,000 to allow the termination of the General Contractor contract agreement between the Borrower and ButtCon.</li></ul>
<b>DRAW PERIOD:</b>	February, 2024
<b>RATE:</b>	10.99% (prime + 3.79%)
<b>APPROVAL ENTITY:</b>	The form, structure and capitalization of the Titled Owner and Borrower must be satisfactory to the Lender(s).
<b>FUNDING:</b>	Funding will not be approved, submitted, placed or disbursed in any form of portion until such a time as all necessary 3 <sup>rd</sup> party reports and all required underwriting exhibits have been received from Borrower and approved by the Lender(s), which reports and exhibit documents are required in order to be able to substantiate and support the foundation of the debt placement; which funding shall not occur until closing of the loan.

# *RCA Financial Services Inc.*

**MINIMUM NET WORTH OF GUARANTOR (S):**

Guarantor(s) shall demonstrate sufficient net worth personally or in aggregate with other owned property or business income evidencing financial capacity to support and financially manage the loan facility. Borrower acknowledges that the project(s) can demonstrate the ability to meet the repayment of this loan.

**COLLATERAL:**

General Security Agreement(s), Corporate Guarantees. Any other security that we may reasonably request.

**STIPULATION:**

This agreement is based on information provided by the Borrower and/ or their representatives. Should any of the information contain factual inaccuracies and/or misstatements, RCA and its Lender(s) shall not be obligated to proceed, and all money received, if any, will be deemed earned.

**LOAN FEE:**

A fee up to 2% of the total loan amount to be paid to the Lender(s).

**ARRANGEMENT FEE:**

A fee of 1% of the total loan amount to be paid to parties arranging the said facilities.

**FINANCIAL STATEMENTS:**

Borrower(s) and Guarantor(s) shall provide RCA and its Lender(s) with Financial Statements prepared in accordance with generally accepted accounting principles, unless audited financial statements are specifically requested, as well as any additional financial information requested by the Lender(s).

**EXPIRATION DATE:**

Borrower has until January 26<sup>th</sup> 2024, 12:00pm (EST) to accept this Proposal Letter.

**DISCLAIMER:**

Both parties agree hereto that no oral or verbal representations have been made whatsoever between the parties herein regarding the terms, conditions, and intent of this agreement. Borrower(s) agrees and accepts that the writing of the Letter of Interest and the particulars thereto and the proposed engagement of the parties hereto are approximate, and Borrower(s) will make no reliance(s) whatsoever on the above until such time that a final and formal letter of commitment and/or formal loan approval is issued. Borrower(s) acknowledged that RCA acts expressly as an agent in this transaction.

There will be no changes, alterations, amendments or adjustments to this document of any kind as none are permitted and the particulars as stated herein are non-negotiable, unless signed off by an officer of RCA and the Borrower(s).

# RCA Financial Services Inc.

## CONDITIONS:

- i) Title to the Real Property to be satisfactory to the Lender and its solicitors in their absolute discretion.
- ii) The Borrower shall provide an up-to-date survey of the Real Property by no later than the closing date.
- iii) The Borrower shall provide its solicitor's opinion letter that all the security documentation required hereunder has been properly authorized and executed and all of the obligations of the Borrower and the Guarantors are valid, binding and enforceable and further that all documents were executed in the office of the Borrower's solicitor and all of the parties are who they purport to be.
- iv) The Borrower to provide all corporate certificates and documentation in support of the loan as may be required by the Lender's solicitors.
- v) The Lender is to receive no adverse financial information with respect to the Borrower or any the Guarantors prior to closing or thereafter.
- vi) The Borrower and Guarantor are to execute *all* of the security documentation provided for herein including the Lender's standard charge terms and any other documentation required by the Lender or its solicitors to further secure the repayment of the indebtedness.
- vii) The Borrower is to provide the following, all of which must be satisfactory to the Lender, prior to advance of funds:
  - a) Verification that borrower, and guarantor if applicable, do not owe CRA taxes (personally or corporately) or HST.
  - b) Verification of ability to pay.
  - c) Current appraisal.
  - d) Avison Young Valuation and Advisory Services Inc. for 5528 Ferry Street, Niagara Falls, ON reflecting a value of no less than \$73,000,000.00.
  - e) Identification for all borrowers, scanned not faxed, front and back and clearly presented.
  - f) Letter of direction for the Broker fee (if applicable)
  - g) Proof of fire insurance
  - h) Confirmation that Title Insurance is in place on the property
  - i) Client's Solicitor details
  - j) All documentation is to be to the complete satisfaction of its lender and its Solicitor.
  - k) This proposal Letter may be executed in counterparts and all such counterparts shall for all purposes constitute one agreement binding all of the parties hereto, notwithstanding that all parties are not signatory to the same counterpart.
  - l) The Borrower(s) and/or Guarantor(s) to have Independent Legal Representation
  - m) Borrower(s) and/or Guarantor(s) hereby acknowledge and direct the lender, or it designates to obtain all required information from third parties to facilitate the closing of this loan.
  - n) Any other reasonable documentation or security requested by the lender is not specified in this commitment.

# *RCA Financial Services Inc.*

## **EVENTS OF DEFAULT:**

All standard Lender events of default shall be deemed included in the security documentation including but not limited to the following:

1. the Borrower ceasing to carry on all or a substantial part of its business.
2. the winding up, liquidation, bankruptcy, assignment into bankruptcy, or receivership of the Borrower or the levying of distress against the Borrower.
3. re-organization, amalgamation, or transfer of ownership of the Borrower or the Real Property without the prior written consent of the Lender.
4. failure of the Borrower to maintain adequate insurance coverage against the Real Property including but not limited to insurance for the renovation work to be performed.
5. failure of the Borrower to repair the Real Property or any other assets secured under this commitment following notice from the Borrower.
6. failure of the Borrower to keep the Real Property free of environmental contaminants.
7. failure of the Borrower to pay real property taxes as they fall due; or
8. failure of the Borrower to obtain any municipal approval required for the purchaser's intended development.
9. The lender shall charge a two (2) month bonus upon any event default including but not limited to non-renewal of the mortgage.

The occurrence of any event of default under any security document referred to in this commitment letter shall be an event of default under all other security documents referred to herein.

## **INSURANCE:**

The Borrower shall provide proof of insurance by a copy of the insurance policy, or a certificate thereof confirmed by the insuring company, satisfactory to the Lender and subject to review by the Lender's insurance consultant. This letter of insurance must specifically provide for the insurance of the premises during the Borrower's intended renovation period.

## **CORPORATE DOCUMENTATION:**

The Borrower will provide such corporate documentation in support of the loan as may be required by the Lender's solicitors as they relate to this project.

## **ZONING:**

The Borrower shall provide evidence satisfactory to the Lender to confirm that the Real Property complies with all applicable zoning and building by-laws.



# RCA Financial Services Inc.

## FEES AND EXPENSES:

By executing this letter of intent, the Borrower and the Guarantor unconditionally undertake to pay all fees and expenses (including legal fees) incurred or to be incurred in connection with this loan whether or not the loan is completed, and any funds are ever advanced hereunder.

The Borrower shall pay an arrangement fee of \$50,000.00 and said fee shall be deemed to have been fully earned by the agent upon acceptance of this Letter of Intent. The borrower hereby irrevocably directs the Lenders solicitor to pay from the closing proceeds, any outstanding balance of the subject fees.

## CANCELLATION:

This commitment, once accepted, shall expire on January 26<sup>th</sup>, 2024. The Lender has the right to cancel this signed Letter of Intent and the funding of the Mortgage prior to closing of this transaction at its sole and absolute discretion if the conditions herein are not met by the Advance Date. The deposit (if any) held in trust by the Lender will be reimbursed to the Borrower if the Lender cancels this agreement for any reason other than a condition not being met, if a condition is not met any deposit will be retained by the Lender.

## AUTHORIZATION:

The Borrower for good and valuable consideration authorizes the Lender to accept telecopier communications on behalf of the Borrower as full and sufficient authority to act in accordance with communications as received by the Lender from the Borrower.

The Borrower shall be bound by all such telecopier communications from itself in the same manner and extent as if such communications were originally handwritten and signed by the Borrower and the Borrower shall always hold the Lender fully indemnified from all claims and demands in respect of all such instructions, in the event such telex, and telecopier communications, were made without authority or otherwise.

Neither anything contained herein, nor the execution and registration of any security documents shall obligate the Lender to advance any monies hereunder. In addition, the advance of part or parts of the monies herein shall not obligate the Lender to advance any unadvanced portion thereof.

Yours faithfully,



---

By:

**Name: Rene Caron CPA,CA**  
**Position: Chief Financial Officer**

---

# *RCA Financial Services Inc.*

## **ACKNOWLEDGEMENT**

I/We wish to make a loa application relative to obtaining a debt facility in accordance with this Proposal Letter. Signature(s) by the Borrower(s) constitute acceptance of the terms of the proposed engagement set forth above and agree that this application will become binding upon all parties once executed. I/We have the authority to bond the Corporation.

**CLIENT NAME** / Borrower(s)

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

Name:

Title:

DATED: \_\_\_\_\_

# *RCA Financial Services Inc.*

## **Wire Instructions**

**RCA Financial Services Inc.**

40 Wynford Drive, Suite 207A  
Toronto, ON M3C 1J5

Bank:

**TD Canada Trust**

15 Clock Tower Drive  
Toronto, ON  
M3C 0G1  
Tel: 416-445-6601

Account Holder:

**RCA Financial Services Inc.**

Transit:

**0241**

Inst.

**004**

Account Number:

**5251757**

*Note: When sending wire transfers,  
please reference the name of the transaction  
the funds should be credited toward.*

**Exhibit “E”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza". The signature is written in a cursive style with a long, sweeping underline.

---

Commissioner for Taking Affidavits

---

**From:** Michael <michael@lakeshoreluxe.ca>  
**Sent:** Saturday, February 17, 2024 11:21 AM  
**To:** Pawel Fugiel  
**Cc:** Michael  
**Subject:** Fwd: Niagara Falls - Stanley

Good morning Pawel,

As discussed, please see the below email communications between ourselves and Marshal Zher.

We have also reached out to KSV Restructuring regarding the Discharge Mortgage Statement.

After consulting with our lawyer, there is a major discrepancy with the MZ payout statement, and we do not agree with their "wrap up calculations". It is not legally correct, as a result, we have requested for the revised and updated payout statement with justified calculations to be paid.

We were advised the payout statement would arrive by Tuesday end of day. Once received, Bank of Montreal will issue the Financing Agreement for the Land and Construction Credit facilities.

Thank you.



Chief Operating Officer  
**Lakeshore Luxe Design & Build Group**

**Address:** 200 – 99 Yorkville Avenue, Toronto, ON M5R 3K5  
**Office:** (365) 799-5763  
**Direct:** (437) 290-6467  
**Email:** michael@lakeshoreluxe.ca

The information contained in this message is privileged and intended only for the recipients named. If the reader is not a representative of the intended recipient, any review, dissemination or copying of this message or the information it contains is prohibited. If you have received this message in error, please immediately notify the sender, and delete the original message and attachments.

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---

**From:** RENE CARON <renecaron@live.ca>  
**Sent:** Thursday, February 8, 2024 3:19 PM  
**To:** Michael <michael@lakeshoreluxe.ca>; shawn@shawngale.ca <shawn@shawngale.ca>  
**Subject:** FW: Niagara Falls - Stanley

Fyi

Sent from my Galaxy

----- Original message -----

From: Noah Goldstein <ngoldstein@ksvadvisory.com>

Date: 2024-02-08 3:15 p.m. (GMT-05:00)

To: RENE CARON <renecaron@live.ca>

Cc: Rebecca Bachynski <rbachynski@marshallzehr.com>, Murray Snedden <msnedden@marshallzehr.com>, Cecil Hayes <chayes@marshallzehr.com>

Subject: Re: Niagara Falls - Stanley

Thank you. Do you have a commitment letter?

Noah Goldstein

416.844.4842

On Feb 8, 2024, at 2:56 PM, RENE CARON <renecaron@live.ca> wrote:

Hi Noah

Yes I can for sure.

Regards

Rene

Sent from my Galaxy

----- Original message -----

From: Noah Goldstein <ngoldstein@ksvadvisory.com>

Date: 2024-02-08 2:48 p.m. (GMT-05:00)

To: Rebecca Bachynski <rbachynski@marshallzehr.com>

Cc: RENE CARON <renecaron@live.ca>, Murray Snedden <msnedden@marshallzehr.com>, Cecil Hayes <chayes@marshallzehr.com>

Subject: Re: Niagara Falls - Stanley

Ok great. Rene, I'm about to hop on a flight. Can you speak at 830am tmrw?

Noah Goldstein

416.844.4842

On Feb 8, 2024, at 2:43 PM, Rebecca Bachynski <rbachynski@marshallzehr.com> wrote:

Good afternoon, Noah,

Mr. Rene Caron has reached out to us regarding the payout of Stanley MZGI 424. Email thread below and he has also provided a payout statement from October last year.

He is looking for a new payout statement as he mentioned that he has received approved financing. I discussed with Murray that it would be best for him to discuss this request with your office – KSV.

Thank you kindly,  
Rebecca

[<image001.png>](#)

**Rebecca Bachynski**

**Executive Assistant - Business Development**

Agent Level 2

**T** 519 342 1000 x227

**C** 519 589 3171

[marshallzehr.com](http://marshallzehr.com)

**MarshallZehr Group Inc.**

FSRA Mortgage Brokerage #12453 | FSRA Mortgage Administrator #11955 | BCFS Mortgage Broker #MB600627

Confidentiality Note: This transmission (including any attachments) may contain confidential information, privileged material (including material protected by the solicitor-client or other applicable privileges), or constitute non-public information. Any use of this information by anyone other than the intended recipient is prohibited. If you have received this transmission in error, please immediately reply to the sender and delete this information from your system. Use, dissemination, distribution, or reproduction of this transmission by unintended recipients is not authorized and may be unlawful.

---

**From:** RENE CARON <renecaron@live.ca>  
**Sent:** Thursday, February 8, 2024 2:00 PM  
**To:** Rebecca Bachynski <rbachynski@marshallzehr.com>  
**Subject:** Re: Niagara Falls - Stanley

Hi Rebecca,

Please see attached.

Rene

---

**From:** Rebecca Bachynski <rbachynski@marshallzehr.com>  
**Sent:** February 8, 2024 1:58 PM  
**To:** RENE CARON <renecaron@live.ca>; Cecil Hayes <chayes@marshallzehr.com>  
**Subject:** RE: Niagara Falls - Stanley

Thank you for taking my call Rene.

[<image001.png>](#)

## Rebecca Bachynski

**Executive Assistant - Business Development**

Agent Level 2

**T** 519 342 1000 x227

**C** 519 589 3171

[marshallzehr.com](http://marshallzehr.com)

**MarshallZehr Group Inc.**

FSRA Mortgage Brokerage #12453 | FSRA Mortgage Administrator #11955 | BCFS Mortgage Broker  
#MB600627

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---

**From:** RENE CARON <renecaron@live.ca>

**Sent:** Monday, February 5, 2024 4:40 PM

**To:** Cecil Hayes <chayes@marshallzehr.com>

**Subject:** Niagara Falls

You don't often get email from [renecaron@live.ca](mailto:renecaron@live.ca). [Learn why this is important](#)

Good afternoon Mr. Hayes,

I am sorry to bother you. I am not sure if I am reaching out to the right person on this file. I have left a voicemail to your mobile phone this past Friday regarding obtaining a payout statement for this outstanding mortgage with Marshall Zehr. I understand you currently hold the first charge on this land and it is currently under power of sale.

My company was able to secure financing on this project and we are currently looking at obtaining documentation and payout statements from lenders (secured and unsecured) to clean title and being able to move on to the second phase for construction financing.

If you could get back to me it would be greatly appreciated.

Kind regards,

Rene Caron CPA,CA

RCA Financial Services Inc.  
207A - 40 Wynford Drive,  
Toronto, Ontario, M3C 1J5  
Tel: 416-825-1855

<~WRD0001.jpg>

<2023-10-31 - The Stanley District Lands - MZGI 424[1].pdf>



**Exhibit “F”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza". The signature is written in a cursive style with a long horizontal stroke at the end.

---

Commissioner for Taking Affidavits

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

THE HONOURABLE	)	WEDNESDAY, THE 24TH
	)	
JUSTICE CAVANAGH	)	DAY OF JULY, 2024

B E T W E E N:

**CAMERON STEPHENS MORTGAGE CAPITAL LTD.**

Applicant

- and -

**CONACHER KINGSTON HOLDINGS INC. and 5004591 ONTARIO INC.**

Respondents

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by TDB Restructuring Limited in its capacity as the Court-appointed receiver (the "Receiver"), of the lands and premises municipally known as 311 Conacher Drive, Kingston, Ontario (the "Kingston Property") and 2849, 2851, 2853, 2855 and 2857 Islington Avenue, Toronto, Ontario (the "Toronto Property" and together with the Kingston Property, the "Properties") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Lakeshore Luxe Design and Build Group Inc., in trust for a corporation to be incorporated dated June 12, 2024 and appended to the First Report of the Receiver dated July 16, 2023 (the "First Report"), and vesting in 1000944028 Ontario Inc. (the "Purchaser") 5004591 Ontario Inc.'s (the "Debtor") right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and on hearing the submissions of counsel for the Receiver and the other parties listed on the counsel slip, , no one appearing for any other person on the service list, although properly served as appears from the affidavit of Candace Baumtrog, sworn July 17, 2024:

1. 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.

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 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 shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Conway dated December 6, 2023 (and effective December 22, 2023); (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 Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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

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

5. THIS COURT ORDERS that the Receiver is authorized and directed to make the Interim Distribution as described and defined in the First Report.

6. THIS COURT ORDERS THAT the distribution to Cameron Stephens Mortgage Capital Ltd. (as contemplated as part of the Interim Distribution) is without prejudice to any arguments, positions, claims, rights or entitlements that any person may now have, or could have or has made to date or may hereafter decide to make in relation to either Property, and without limiting the generality of the foregoing, does not prejudice any claims or rights that any person has or may have under the foregoing general wording as well as (i) to claim to subrogate to any of the security or loan debt held by Cameron Stephens, or in relation to duties and obligations relating thereto or claims under Section 2 of the *Mercantile Law Amendment Act* or otherwise, (ii) to claims relating to rights arising from Section 2 of the *Mortgages Act*, (iii) to claim contribution and indemnity from any person (other than, for certainty, against the Receiver); and (iv) to assert any marshalling arguments provided that, for certainty, no party may make any claim against any recipient on account of proceeds received from the Interim Distribution.

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 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.

 Mr. Justice  
Cavanagh

---

**Schedule A – Form of Receiver’s Certificate**

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

**CAMERON STEPHENS MORTGAGE CAPITAL LTD.**

Applicant

- and –

**CONACHER KINGSTON HOLDINGS INC. and 5004591 ONTARIO INC.**

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

- (a) Pursuant to an Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (the "Court") dated December 6, 2023 (effective December 22, 2023), TDB Restructuring Limited was appointed as the receiver (the "Receiver") of the lands and premises municipally known as 311 Conacher Drive, Kingston, Ontario (the "Kingston Property") and 2849, 2851, 2853, 2855 and 2857 Islington Avenue, Toronto, Ontario (the "Toronto Property" and together with the Kingston Property, the "Properties").

- (b) Pursuant to an Order of the Court dated July 24, 2024, the Court approved the agreement of purchase and sale made as of June 12, 2024 (the "Sale Agreement") between the Receiver and Lakeshore Luxe Design and Build Group Inc., in trust for a corporation to be incorporated (the "Purchaser") and provided for the vesting in the Purchaser of the 5004591 Ontario Inc.'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 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- (c) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

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 section 4 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].

**TDB Restructuring Limited, in its  
capacity as Receiver of the Properties,  
and not in its personal capacity**

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

Name:

Title:

## **Schedule B – Purchased Assets**

**PIN No. 10306-0064 (LT) - 2849 Islington Avenue**

Part Lot 22 Concession 6 WYS Township of York as in NY735134; Toronto (N York), City of Toronto

**PIN No. 10306-0035 (LT) - 2857 Islington Avenue**

Part Lot 2 Plan 9059 North York as in TB379983; Toronto (N York), City of Toronto

**PIN No. 10306-0034 (LT) - 2855 Islington Avenue**

Part Lot 2 Plan 9059 North York as in TB379984; Toronto (N York), City of Toronto

**PIN No. 10306-0033 (LT) - 2853 Islington Avenue**

Part Lot 1 Plan 9059 North York as in TB221318; Toronto (N York), City of Toronto

**PIN No. 10306-0032 (LT) - 2851 Islington Avenue**

Part Lot 1 Plan 9059 North York as in TR92058; Toronto (N York), City of Toronto

**Schedule C – Claims to be deleted and expunged from title to Real Property**

<b>Reg. Num.</b>	<b>Date</b>	<b>Instrument Type</b>	<b>Parties To</b>
TB379984	December 29, 1986	DECL SEC 22	
AT5125306	May 1, 2019	TRANSFER	5004591 ONTARIO INC.
AT5323017	December 18, 2019	CHARGE	CAMERON STEPHENS MORTGAGE CAPITAL LTD.
AT5323018	December 18, 2019	NO ASSGN RENT GEN	CAMERON STEPHENS MORTGAGE CAPITAL LTD.
AT6455828	December 7, 2023	NOTICE	
AT6591119	June 11, 2024	APL COURT ORDER	RSM CANADA LIMITED
AT6591123	June 11, 2024	APL AMEND ORDE	RSM CANADA LIMITED

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants**

**related to the Real Property**

**(unaffected by the Vesting Order)**

<b>Reg. Num.</b>	<b>Date</b>	<b>Instrument Type</b>	<b>Parties To</b>
NY524794	November 21, 1967	Agreement	The Corporation of the Borough of North York
NY579166	July 20, 1970	By-law exempting Part Lot	
NY593705	May 12, 1971	Agreement	The Borough of North York
NY608306	December 29, 1971	Agreement	The Corporation of the Borough of North York
NY620929	July 28, 1972	Municipal By-law	
NY632269	January 29, 1973	Notice of Airport Zoning Regulations	Department of Transportation
TB379984	December 29, 1986	Statutory Declaration of Anthony Dilena	
TR57844	March 27, 2000	Notice	Her Majesty the Queen in Right of the Department of Transport Canada
AT4601553	June 19, 2017	Section 37 Agreement	City of Toronto
AT4601554	June 19, 2017	Rental Housing Agreement	City of Toronto
AT4601555	June 19, 2017	Restriction preventing any Transfer or Charge of the lands or any part thereof without the prior written	

		consent of the Chief Planner, of the City of Toronto	
AT4867240	May 18, 2018	Site Agreement	Plan City of Toronto

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

**Applicant**

-and-

CONACHER KINGSTON HOLDINGS INC. et al.

**Respondents**

**Court File No.: CV-23-00701672-00CL**

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

**APPROVAL AND VESTING ORDER**

**PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**  
155 Wellington Street West, 35<sup>th</sup> Floor  
Toronto, ON M5V 3H1  
Fax: (416) 646-4301

**Jeffrey Larry (LSO#44608D)**  
Tel: 416.646.4330  
Email: [jeff.larry@paliareroland.com](mailto:jeff.larry@paliareroland.com)

**Ryan Shah (LSO# 88250C)**  
Tel: 416.646.6356  
Email: [ryan.shah@paliareroland.com](mailto:ryan.shah@paliareroland.com)

Lawyers for the Receiver,  
TDB Restructuring Limited

**Exhibit "G"**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza".

---

Commissioner for Taking Affidavits

## AGREEMENT OF PURCHASE AND SALE

This AGREEMENT made the ~~<\*>~~3rd day of ~~<\*>~~June 2024.

BETWEEN:

**TDB RESTRUCTURING LIMITED** (the “**Receiver**”)

in its capacity as Court-Appointed Receiver over the lands and premises set out on Schedule “A” attached hereto and not in its personal or corporate capacity

(the “**Vendor**”)

and

**LAKESHORE LUXE DESIGN AND BUILD GROUP INC., IN TRUST FOR A CORPORATION TO BE INCORPORATED**

(the “**Purchaser**”)

RECITALS:

- A. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 6, 2023, (the “**Appointment Order**”) RSM Canada Limited was appointed as Receiver over the lands legally described in Schedule “A” attached hereto, effective December 22, 2023;
- B. Pursuant to the Substitution Order of the Ontario Court of Justice (Commercial List) dated March 1, 2024, (the “**Substitution Order**”) the Receiver’s name was substituted in the place of the name of RSM Canada Limited;
- C. The Vendor desires to sell and the Purchaser desires to purchase the Purchased Assets, as more particularly set out herein, subject to the terms and conditions hereof.

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

### SECTION 1 - INTERPRETATION

#### 1.1 Definitions

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



- (a) **"Acceptance Date"** means the date that this Agreement is executed and delivered by the Parties;
- (b) **"Agent"** shall mean Colliers Macaulay Nicolls Inc.;
- (c) **"Agreement"** means this Agreement of Purchase and Sale, including the Schedules to this Agreement, as it or they may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement;
- (d) **"Applicable Laws"** means, with respect to the Purchased Assets or to any Person, property, transaction or event, all laws, by-laws, rules, regulations, orders, judgments, decrees, decisions or other requirements having the force of law relating to or applicable to such Person, property, transaction or event;
- (e) **"Assumed Liabilities"** has the meaning ascribed to it in Section 2.10.
- (f) **"Business Day"** means a day on which banks and the Land Registry Office for the City of Toronto are open for business but does not include a Saturday, Sunday, or statutory holiday in the Province of Ontario;
- (g) Intentionally deleted.
- (h) **"Claim"** means any claim, demand, action, cause of action, damage, loss, cost, liability or expense (including legal fees on a substantial indemnity basis) and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing;
- (i) **"Closing"** means the successful completion of the Transaction;
- (j) **"Closing Date"** means the date which is three (3) days immediately following the date upon which the Approval and Vesting Order is granted, or the next Business Day, as applicable, or such other date as the Parties may mutually agree upon;
- (k) Intentionally deleted.
- (l) **"Court"** means the Court defined in the first recital of this Agreement;
- (m) Intentionally deleted.
- (n) **"Data Room"** means the electronic data room established by or on behalf of the Vendor containing documents related to the Purchased Assets for review by the Purchaser;
- (o) Intentionally deleted.

- (p) Intentionally deleted.
- (q) **“Debtor or Debtors”** means all or any one of Kings Townhomes Limited (formerly Conacher Kingston Holdings Inc.) and 5004591 Ontario Inc.;
- (r) **“Deposit”** has the meaning ascribed to it in Section 2.5;
- (s) **“Encumbrance”** means any mortgage, charge, pledge, hypothecation, security interest, trust, deemed trust (statutory or otherwise) assignment, lien (statutory or otherwise), Claim, title retention agreement or arrangement, restrictive covenant, rights of way, easements, encroachments, reserves, or other encumbrance of any nature or any other arrangement or condition which, in substance, secures payment or performance of an obligation;
- (t) **“Environmental Condition”** has the meaning ascribed to it in Section 2.2(a).
- (u) **“Environmental Laws”** means all Applicable Laws concerning pollution or protection of the natural environment or otherwise relating to the environment or health or safety matters, including Applicable Laws pertaining to (i) reporting, licensing, permitting, investigating and remediating the presence of Hazardous Materials, and (ii) the storage, generation, use, handling, manufacture, processing, transportation, treatment, release and disposal of Hazardous Materials including without limiting the generality of the foregoing the following any written policies and guidelines and directives, administrative rulings or interpretations, that are in effect and applicable to the Vendor or the Property on the Closing Date, as well as the common law and any judicial or administrative order, consent decree or judgment that is in effect and applicable to the Vendor or the Property on the Closing Date, that relates to pollution or the protection of the environment, including, without limitation, the *Atomic Energy Control Act* (Canada), the *Canadian Environmental Protection Act* (Canada), the *Pest Control Products Act* (Canada), the *Transportation of Dangerous Goods Act* (Canada), the *Environmental Protection Act* (Ontario), the *Environmental Assessment Act* (Ontario), the *Ontario Water Resources Act* (Ontario) and the *Occupational Health & Safety Act* (Ontario), and the regulations and guidelines promulgated pursuant thereto or issued by any Government Authority in respect thereof, and equivalent or similar local and provincial ordinances and statutory programs and the regulations and guidelines promulgated pursuant thereto.
- (v) **“Ereg”** has the meaning ascribed to it in Section 5.7;
- (w) **“ETA”** means the *Excise Tax Act* (Canada), as it may be amended from time to time;
- (x) **“Excluded Assets”** means the assets, if any, listed in Schedule “C”;

- (y) **"Final Order"** means, in respect of any order, such order after i) the expiry of applicable appeal periods; or (ii) in the event of an appeal or application for leave to appeal or to stay, vary, supersede, set aside or vacate such order, final determination of such appeal or application by the applicable court or appeal tribunal;
- (z) **"Governmental Authority"** means any person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal government having or claiming to have jurisdiction over part or all of the Purchased Assets, the Transaction or one or both of the Parties and shall include a board, commission, courts, bureau, agency or any quasi-governmental or private body exercising any regulatory authority including an association of insurance underwriters;
- (aa) **"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 Governmental 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 or safety matters;
- (bb) **"HST"** means all goods and services taxes and harmonized sales tax payable under the ETA;
- (cc) **"Land Transfer Tax"** means all the taxes payable under the *Land Transfer Tax Act* (Ontario) and any other applicable provincial or municipal land transfer tax legislation, including all registration fees, license fees, and other like charges payable upon a transfer of real property, together with interest, penalties and additions thereto;
- (dd) **"Leases"** means any leases with any tenants relating to the Property;
- (ee) Intentionally deleted.
- (ff) **"Liabilities"** means all costs, expenses, charges, debts, liabilities, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise, liquidated or unliquidated under or in respect of any contract, agreement, arrangement, lease, commitment or undertaking, Applicable Law and Taxes.
- (gg) **"Parties"** means the Vendor, the Purchaser and any other Person who may become a party to this Agreement. **"Party"** means any one of the foregoing;

- (hh) **"Permits"** means all permits, licenses and applications that may have been issued or applied for in the name of the Debtor and/or the Vendor in connection with the servicing and/or development of the Property;
- (ii) **"Permitted Encumbrances"** means those Encumbrances listed in Schedule "B" attached hereto;
- (jj) **"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;
- (kk) **"Plans"** means all plans and documentation in the possession or control of the Vendor relevant to the development of the Property including, without limitation, any project documents, engineering drawings, architectural plans and working drawings, landscaping plans, reports, project documents other documentation prepared to illustrate or define a particular aspect of the development of the Property, in each instance, to the extent forming part of the Data Room created by the Vendor in respect of the Transaction;
- (ll) **"Property"** means the real property described in Schedule "A" attached hereto;
- (mm) **"Property Documents"** means the documents in the Data Room;
- (nn) **"Purchaser Closing Conditions"** has the meaning ascribed to it in Section 4.1;
- (oo) **"Purchase Price"** shall have the meaning ascribed to it in Section 2.4. For greater certainty, the Purchase Price shall be exclusive of Transfer Taxes and any other taxes payable as a result of or in connection with the Transaction;
- (pp) **"Purchaser's Solicitors"** means the law firm of •;
- (qq) **"Purchased Assets"** means those assets being the lands which are the subject of this Agreement;
- (rr) **"Receiver"** has the meaning described thereto in the Recitals;
- (ss) **"Reports"** means collectively any written reports or documents received or obtained by the Receiver from any third party regarding any aspect of the Property;
- (tt) **"Rights"** has the meaning ascribed to it in Section 2.13;
- (uu) **"Sale Procedure"** means the sale procedure attached hereto as Schedule "D", with such amendments as are satisfactory to the Receiver;

- (vv) Intentionally deleted.
- (ww) “**Successful Bid**” has the meaning given to it in the Sale Procedure;
- (xx) “**Successful Bidder**” has the meaning given to it in the Sale Procedure;
- (yy) “**Transaction**” means the transaction of purchase and sale and assignment and assumption contemplated by this Agreement;
- (zz) “**Transfer Taxes**” means all HST, Land Transfer Tax, sales, excise, use, transfer, gross receipts, documentary, filing, recordation, value-added, stamp, stamp duty reserve, and all other similar taxes, duties or other like charges, however denominated together with interest, penalties and additional amounts imposed with respect thereto;
- (aaa) Intentionally deleted.
- (bbb) “**Vendor Closing Conditions**” has the meaning ascribed to it in Section 4.3;
- (ccc) “**Vendor’s Solicitor**” means the law firm of Garfinkle Biderman LLP;
- (ddd) “**Approval and Vesting Order**” means the order of the Court approving the sale by the Receiver to the Purchaser of the Subject Assets and vesting all rights, title and interest of the Subject Assets in favour of the Purchaser free and clear of all Encumbrances (other than Permitted Encumbrances) (in a form to be agreed upon by the parties);
- (eee) “**Vesting Order Motion**” means a motion by the Receiver seeking the granting of the Approval and Vesting Order; and
- (fff) “**Work Orders**” means any work orders, deficiency notices, outstanding building permits, orders, or requirements to comply with any Applicable Laws or issued by any Governmental Authorities.

## 1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof.

## 1.3 Extended Meanings

Words importing the singular include the plural and vice versa, words importing gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, corporations and governmental authorities. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

## 1.4 Schedules

The following Schedules are incorporated in and form part of this Agreement;

- Schedule "A" Property
- Schedule "B" Permitted Encumbrances
- Schedule "C" Excluded Assets
- Schedule "D" Sale Procedure

## SECTION 2 — SALE AND PURCHASE AND ASSIGNMENT

### 2.1 Sale and Purchase of Purchased Assets

On the Closing Date, subject to the terms and conditions of this Agreement, the Vendor shall sell and the Purchaser shall purchase the Purchased Assets and the Purchaser shall assume the Assumed Liabilities, all in accordance with and pursuant to the terms hereof and the Approval and Vesting Order. The Purchaser acknowledges that it is not purchasing any other property or assets of the Debtor other than the Purchased Assets.

### 2.2 "As is, Where is"

The Purchaser acknowledges and agrees that:

- (a) the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Materials or deficiencies which may exist on the Closing Date, including, without limiting the generality of the foregoing, any latent or patent defects in the Purchased Assets. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets and that the Purchaser has conducted such inspections of the condition of and title to the Purchased Assets as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to any matter including, title, encumbrances, description, fitness for purpose or use, merchantability, condition, quantity or quality, latent defects, cost, size, value, state of repair, zoning, permitted uses, permits, compliance with Applicable Laws of Government Authorities, threatened claims, litigation, the existence or non-existence of Hazardous Materials flowing onto or from the Property or any part thereof, or in the air, surface or ground water flowing through, onto or from the Property, or any part thereof, any non-compliance with Environmental Laws including any adverse matters contained in the Reports (the "**Environmental Condition**"), compliance with any or all Environmental Laws, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Vendor to sell or assign same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario)



or similar legislation do not apply hereto and are hereby waived by the Purchaser. The descriptions of the Purchased Assets set out in this Agreement or in the Property Documents are for the purposes of identification only and no representation, warranty or condition has or will be given by the Vendor concerning the completeness or accuracy of such descriptions. The Purchaser further acknowledges that the Property Documents and all other written and oral information (including, without limitation, any analyses, financial information and projections, compilations, studies and the Plans) obtained by the Purchaser from the Vendor or the Agent with respect to the Purchased Assets or otherwise relating to the Transaction has been provided for the convenience of the Purchaser only and is not warranted to be accurate or complete. The Purchaser further acknowledges that the Vendor shall not be under any obligation to deliver the Purchased Assets to the Purchaser and that it shall be the Purchaser's responsibility to take possession of the Purchased Assets.

- (b) notwithstanding any statutory provisions to the contrary, the Purchaser has no right to submit requisitions on title or in regard to any outstanding Work Orders, and the Purchaser shall accept the title to the Property subject to the Permitted Encumbrances and the Environmental Condition.
- (c) the various parties who prepared the Property Documents may have restricted the use thereof to the Debtor only, in their respective retainers with the Debtor and any purported conveyance of any of the Property Documents by the Vendor to the Purchaser may be subject to such limitations.
- (d) Without limiting the generality of this Section 2.2, the Purchaser acknowledges and agrees that the parties have expressly agreed to exclude from this Agreement all express or implied representations and warranties with respect to the following matters:
  - (i) the compliance of the Property with Applicable Laws, by-laws or regulations including without limitation, municipal zoning by-laws and regulations;
  - (ii) any easements, rights of way, instruments, documents, agreements or other registered or unregistered interest in the Property which impacts the use, enjoyment, income or development opportunities connected with the Property;
  - (iii) that the present use or any future use of the Purchased Assets intended by the Purchaser is or will be lawful or permitted;
  - (iv) the execution, good standing, validity, binding effect or enforceability of the Permitted Encumbrances;
  - (v) that the Vendor has any right, title or interest in any goodwill associated with the Purchased Assets, or the use of any name associated with the operation of the Purchased Assets;

- (vi) the description, title, condition, value, state of repair and fitness for any purpose of the Purchased Assets; and
  - (vii) the compliance of the Property with Environmental Laws, Reports or the existence or non-existence of Hazardous Materials, environmental, soil or water contamination or pollution on or about the Property, or otherwise with respect to the environmental condition of the Property;
- (e) the Property Documents and any assets lists, information packages and other material concerning the Purchased Assets or the sale thereof provided by or on behalf of the Vendor and the Agent have been prepared solely for the convenience of the Purchaser and are not warranted or represented to be complete or accurate and are not part of this Agreement (unless specifically provided in such material) and the descriptions of the Purchased Assets provided to the Purchaser are for the purposes of identification only, no conditions, warranty or representation has been or will be given by the Vendor concerning the accuracy, completeness or any other matter concerning such descriptions;
- (f) the Vendor is entering into this Agreement solely in its capacity as Receiver of the Property pursuant to the Appointment Order and not in its personal or other capacity and the Vendor and its agents (including the Vendor's Solicitors), officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith;
- (g) save as to any valid objection to title made in respect of matters arising after the Acceptance Date, the Purchaser shall be conclusively deemed to have accepted the title to the Property and to have accepted the Property subject to the Permitted Encumbrances and the Environmental Condition and subject to all Applicable Laws, by-laws and regulations affecting its use. If any valid objection to title expressly permitted herein is made by the Purchaser prior to the Closing Date, which the Vendor is unwilling or unable to remove, remedy, or satisfy and which the Purchaser will not waive or is not satisfied by title insurance, then the Receiver may terminate this Agreement by notice to the Purchaser, whereupon, except as herein expressly set forth, the Deposit without interest accrued thereon shall be forthwith returned to the Purchaser in accordance with and subject to the terms in Section 2.5 and 2.12 each of the Purchaser and the Receiver shall be released from all obligations under this Agreement;
- (h) the Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title except such of the foregoing as are in the possession or control of the Receiver;
- (i) the Purchaser acknowledges that, the Vendor has provided the Purchaser access to the Data Room and that the Purchaser has had sufficient opportunity to review, and has satisfied itself with respect to, the Property Documents. If for any reason the transaction is not completed, the Purchaser shall forthwith return the Property Documents, and delete any electronic copies of them in its possession or control. The Vendor makes no representation or warranty, express or implied, as to the



accuracy or completeness of any information contained in any of the Property Documents; and

- (j) in entering into this Agreement, the Purchaser has relied and will rely entirely and solely upon its own inspections and investigations with respect to the Property and the Purchased Assets, including the physical condition and the Environmental Condition of the Purchased Assets including compliance with Applicable Laws and has relied solely upon its own judgement resulting from doing so and has not relied and will not rely on any information, written or oral, furnished by the Vendor or any other person or entities on behalf of or at the direction of the Vendor including the Agent, including with respect to value of the Purchased Assets, the development potential of the Property, adequacy, marketability, quantity, location, condition, quality, fitness or state of repair. The information in the Data Room and description of the Purchased Assets in any marketing material, listing information, and any like material delivered or made available by the Vendor and/or the Agent, the Vendor's agents or any other party on its behalf to the Purchaser or its representatives are believed to be correct, but if any misstatement, error, inaccuracy or omission (collectively the "Inaccuracies") is found in the them, the Purchaser shall not be entitled to any abatement, damages, reimbursement, costs or to termination of this Agreement as a result of them and the Purchaser releases the Vendor and its agents from any Claims the Purchaser had, has or may have as a result of such Inaccuracies.

2.3 Permitted Encumbrances

The Purchaser acknowledges that the Vendor is selling the Purchased Assets subject to the Assumed Liabilities and that the Vendor undertakes no obligation to discharge the Permitted Encumbrances on Closing or thereafter.

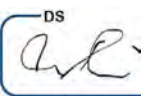
2.4 Purchase Price

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the "Purchase Price") shall be an amount of \$\_\_\_\_\_ allocated as set out in paragraph 2.7.

2.5 Deposit no later than 12:00 pm EST (Toronto time) on June 17, 2024

The Parties ~~acknowledge and~~ agree that the sum of \$\_\_\_\_\_ being ~~ten five~~ <sup>ten</sup> ~~(105%)~~ <sup>10</sup> percent of the Purchase Price (the "Deposit") ~~has been delivered~~ <sup>will be</sup> by the Purchaser to the Vendor's solicitor in trust ~~upon submission~~ <sup>within 10 business days</sup> by the Purchaser of an executed copy of the Agreement to the Vendor. The Deposit shall be held in a non-interest bearing account of a Canadian chartered bank or trust company, in trust and to be disbursed in accordance with the following provisions:

- (a) if the purchase and sale of the Purchased Assets is completed on the Closing Date, then the Deposit shall be released from trust and applied towards payment of the Purchase Price;



- (b) if the purchase and sale of the Purchased Assets is not completed on the Closing Date for any reason other than the default of the Purchaser hereunder, then the Deposit shall, subject to any Claim by the Vendor for damages under Section 2.12(d) herein, be released from trust and paid to the Purchaser in full satisfaction of all Claims incurred by the Purchaser as a result of such non-completion; or
- (c) if the purchase and sale of the Purchased Assets is not completed on the Closing Date as a result of the Purchaser's default hereunder, then the Deposit shall be forfeited to the Vendor and released from trust as liquidated damages and not as a penalty and paid to the Vendor without prejudice to the Vendor's rights to reimbursement on account of any Claim of the Vendor against the Purchaser as a result of such failure and the Vendor shall be entitled to pursue all of its rights and remedies against the Purchaser, including the resale of the Purchased Assets. Upon any such resale, the Purchaser shall pay to the Vendor: (i) an amount equal to the amount, if any, by which the Purchase Price under the Agreement exceeds the net purchase price received by the Vendor pursuant to such resale (net of any commissions and costs and expenses incurred to effect the completion of such resale including legal costs on a full indemnity basis), and (ii) an amount equal to all costs and expenses incurred by the Vendor in respect of the Transaction or occasioned by the Purchaser's failure to comply with this Agreement.

## 2.6 Payment of Purchase Price

The Purchase Price shall be paid and satisfied as follows:

- (a) on Closing, the Deposit shall be released from trust and credited against the Purchase Price in accordance with Section 2.5(a); and
- (b) on Closing, the Purchase Price, subject to adjustments and minus the amount paid to the Vendor pursuant to Section 2.6(a), shall be paid to the Vendor or as the Vendor may direct in writing by way of wire transfer using the Large Value Transfer System.

## 2.7 Intentionally deleted.

## 2.8 Adjustment of Purchase Price

- (1) The Purchase Price shall be adjusted as of the Closing Date in accordance with the terms of this Agreement for any property taxes (including interest thereon, if applicable), utilities and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a Court supervised sale (the "**Adjustments**"). The Receiver shall prepare a statement of adjustments and deliver same to the Purchaser for its approval by no later than 3 Business Days prior to the Closing Date. If the amount of any Adjustments required to be made pursuant to this Purchase Agreement cannot be reasonably determined as

of the Closing Date, an estimate shall be made by the Vendor as of the Closing Date based upon the best information available to the Vendor at such time. When such cost or amount is determined, the Vendor or Purchaser, as the case may be, shall, within 30 days of determination, provide a complete statement thereof to the other and within 30 days thereafter the Vendor and the Purchaser shall make a final adjustment as of the Closing Date for the item in question. In the absence of agreement by the Parties the final cost or amount of an item shall be determined by an accountant or such other financial professional appointed jointly by the Vendor and the Purchaser, with the cost of such accountant's or other financial professional's determination being shared equally between the Parties. All re-adjustments shall be requested in a detailed manner on or before the 60th day after the Closing Date, after which time neither party shall have any right to request re-adjustment.

- (2) Other than as provided for in this section 2.8, there shall be no Adjustments to the Purchase Price.

## 2.9 Excluded Liabilities

Other than the Assumed Liabilities, the Purchaser shall not assume and shall not be liable for any other Liabilities of the Vendor or the Debtor.

## 2.10 Assumed Liabilities

From and after Closing, the Purchaser shall assume and be liable for the Assumed Liabilities. The Assumed Liabilities shall consist only of the Liabilities incurred under or in respect of:

- (a) Permitted Encumbrances;
- (b) the use of the Purchased Assets from and after the Closing Date to the extent relating to periods from and after the Closing Date; and
- (c) the Environmental Condition, and any and all Liabilities for the remediation of the soil and groundwater in, on, over, under or flowing through, onto or from the Property or any part thereof.

(the foregoing being the "**Assumed Liabilities**").

## 2.11 Taxes

In addition to the Purchase Price, the Purchaser or the beneficial owner of the Property if different from the Purchaser shall pay all applicable Transfer Taxes exigible in connection with the purchase and sale of the Purchased Assets, including, without limitation, HST and Land Transfer Tax.

The Purchaser will be an HST registrant and a prescribed recipient under the ETA on or before the Closing Date and will provide its registration number to the Vendor on or before

the Closing Date.

The Purchaser shall deliver, prior to Closing, a certificate in form prepared by the Vendor acting reasonably 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. 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 together and the Purchaser shall indemnify and hold harmless the Vendor from and against any and all Claims, HST, penalties, costs and any interest that may become payable by or assessed against the Vendor for all Transfer Taxes arising out of, related to or connected in any way with the Property or this Transaction. If the Purchaser shall fail to deliver its certificate, then the Purchaser shall tender to the Vendor at Closing, in addition to the balance due on Closing, an amount equal to the HST that the Vendor shall be obligated to collect and remit in connection with the Transaction.

## 2.12 Inspections

The Vendor will permit the Purchaser, its consultants, agents and representatives to carry out, at the Purchaser's sole expense and risk, such investigations, soil tests, and environmental audits as the Purchaser, acting reasonably, may deem necessary with respect to the Property, subject to and conditional upon the following terms and conditions:

- (a) any invasive testing shall require the Vendor's written approval prior to such testing;
- (b) the Purchaser shall provide at least two Business Days' notice to the Vendor of any such tests and inspections and the Vendor will be entitled to have a representative present during all such tests and inspections;
- (c) all soil tests or environmental audits shall be coordinated with the Vendor;
- (d) any damage to the Property caused by such tests and inspections will be promptly repaired by the Purchaser and the Purchaser will indemnify and save the Vendor harmless from all Claims which the Vendor may suffer as a result of the said tests and inspections or any other breach of this Section by the Purchaser; and
- (e) prior to entering the Property to conduct the Purchaser's tests and investigations, the Purchaser shall deliver (or shall cause its representatives completing the Purchaser's investigations on its behalf to deliver) to the Vendor evidence of liability insurance coverage for at least \$2,000,000.

The Purchaser agrees that the Vendor shall be entitled to deduct from the Deposit the amount of any Claims which the Vendor may suffer as a result of a breach of this Section 2.12 by the Purchaser. To the extent that the Purchaser commissions any reports in connection with its tests and investigations of the Property, copies of all such reports shall be delivered to the Vendor at no cost to the Vendor within three (3) Business Days of issuance.

### 2.13 Non-Transferable and Non-Assignable 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 third Person, or if the transfer of a Right would constitute a breach of any obligation under, or a violation of, any Applicable Law unless the approval, consent or waiver of such third Person is obtained, then, except as expressly otherwise provided in this Agreement and without limiting the rights and remedies of the Purchaser contained elsewhere in this Agreement, this Agreement shall not constitute an agreement to transfer such Rights unless and until such approval, consent or waiver has been obtained. After Closing and for a period of sixty (60) days following Closing, the Vendor shall:

- (a) maintain its existence and hold the Rights in trust for the Purchaser;
- (b) comply with the terms and provisions of the Rights as agent for the Purchaser at the Purchaser's cost and for the Purchaser's benefit;
- (c) cooperate with the Purchaser in any reasonable and lawful arrangements designed to provide the benefits of such Rights to the Purchaser; and
- (d) enforce, at the reasonable request of the Purchaser and at the expense and for the account of the Purchaser, any rights of the Vendor arising from such Rights against any third Person, including the right to elect to terminate any such Rights in accordance with the terms of such Rights upon the written direction of the Purchaser.

In order that the full value of the Rights may be realized for the benefit of the Purchaser, the Vendor shall, at the request and expense and under the direction of the Purchaser, in the name of the Vendor or otherwise as the Purchaser may specify, take all such action and do or cause to be done all such things as are, in the reasonable opinion of the Vendor, necessary or proper in order that the obligations of the Vendor under such Rights may be performed in such manner that the value of such Rights is preserved and enures to the benefit of the Purchaser. To the extent that such approval, consent or waiver has not been obtained by the 60<sup>th</sup> day following the Closing, such Right shall be deemed to be an excluded Purchased Asset and the Vendor may terminate any agreement pertaining to such Right unless otherwise agreed to by the Parties. The Purchaser shall indemnify and hold the Vendor harmless from and against any Claim under or in respect of such Rights arising because of any action of the Vendor taken in accordance with this Section.

2.14 Intentionally deleted.

### 2.15 Approval and Vesting Order

- (a) The Receiver and the Purchaser acknowledge that:
  - i. this Agreement is subject to Court approval; and

- ii. closing of the Transaction is subject to this Agreement being determined by the Receiver to be the Successful Bid pursuant to the Sale Procedure and to the issuance of the Approval and Vesting Order.
- (b) If this Agreement is determined to be the Successful Bid (as defined in the Sale Procedure) pursuant to the Sale Procedure, the Receiver shall use its commercially reasonable efforts to promptly thereafter file and serve the Vesting Order Motion on notice to the necessary parties.
- (c) If the Purchaser is the Successful Bidder (as defined in the Sale Procedure), the Purchaser shall provide all information if any, and take any such actions as may be reasonable requested by the Receiver to assist the Receiver in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the Transaction.
- (d) From and after the Acceptance Date, the Receiver shall provide such prior notice as may be reasonable under the circumstances before filing any materials with the Court that relate, in whole or in part, to this Agreement, the Purchaser, or the Approval and Vesting Order and shall consult in good faith with the Purchaser regarding the content of such materials prior to any such filing (provided that the Receiver shall not be obligated to incorporate the comments of the Purchaser and do any such filings).

## 2.16 Closing Certificate

The parties hereto acknowledge and agree that the Receiver shall be entitled to file with the Court a certificate, substantially in the form attached to the Approval and Vesting Order (the "**Closing Certificate**") upon receiving written confirmation from the Purchaser that all conditions to close under this Agreement have been satisfied or waived. The Receiver shall have no liability to the Purchaser or any other person as a result of filing the Closing Certificate.

## 2.17 Receiver's Capacity

The Purchaser acknowledges and agrees that in all matters pertaining to the Sale Procedure, this Agreement, including in its execution, the Receiver has acted and is acting solely in its capacity as Receiver and manager of the Property pursuant to the Appointment Order and not in its personal, corporate or any other capacity and the Receiver and its agents, officers, directors, employees and representatives will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith.

## SECTION 3 - REPRESENTATIONS AND WARRANTIES

### 3.1 Purchaser's Covenants

The Purchaser covenants and agrees that it will, effective on and after the Closing Date, assume and be fully responsible for:



- (a) all obligations which are to be observed or performed from and after completion of this Transaction under the Permitted Encumbrances; and
- (b) the Assumed Liabilities and any other obligations and liabilities assumed by the Purchaser as provided for by this Agreement.

### 3.2 Purchaser's Representations and Warranties

The Purchaser represents and warrants to the Vendor, which representation and warranties the Vendor is relying upon, that:

- (a) the Purchaser is and will be as of Closing, a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and is duly qualified to purchase and own the Purchased Assets;
- (b) the Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations and the execution and delivery of this Agreement and the consummation of the Transaction has been duly authorized by all necessary corporate action on the part of the Purchaser;
- (c) no consent or approval of or registration, declaration or filing with any Government Authority is required for the execution or delivery of this Agreement by the Purchaser, the validity or enforceability of this Agreement against the Purchaser, or the performance by the Purchaser of any of its obligations hereunder;
- (d) the Purchaser is not a party to, bound or affected by or subject to any indenture, agreement, instrument, charter or by-law provision, order, judgment or decree which would be violated, contravened or breached by the execution and delivery by it of this Agreement or the performance by it of any of the terms contained herein;
- (e) there is no suit, action, litigation, arbitration proceeding or governmental proceeding, including appeals and applications for review, in progress, pending or, to the best of the Purchaser's knowledge, threatened against or relating to the Purchaser or any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator which, in any case, might adversely affect the ability of the Purchaser to enter into this Agreement or to consummate the Transaction and the Purchaser is not aware of any existing ground on which any action, suit or proceeding may be commenced with any reasonable likelihood of success;
- (f) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as of Closing, duly and validly executed and delivered by the Purchaser and constitute or will, as of Closing, constitute legal, valid and binding obligations of the

Purchaser, as the case may be, enforceable in accordance with the terms hereof or thereof;

- (g) the Purchaser is not a non-Canadian person as defined in the *Investment Canada Act*;
- (h) The Purchaser has now and will have on the Closing Date the financial resources to complete this transaction in accordance with the terms of this Agreement; and
- (i) the Purchaser is registered or will be registered on Closing under Part IX of the ETA.

### 3.3 Record of Site Condition in the Environmental Registry

If at any time following Closing the Purchaser, in its sole discretion, elects to file a Record of Site Condition ("**RSC**") in respect of any Property, then the following clause will be deemed to have formed part of this Agreement as at the time of execution hereof, in respect only of the Property for which the RSC is filed:

"The Purchaser covenants and agrees that following the Closing, it shall file, at its sole cost and expense, a Record of Site Condition in the Environmental Registry as contemplated under s.168.4 of the Environmental Protection Act for the Property."

On Closing, the Purchaser shall deliver an indemnity in favour of the Vendor in which it agrees to indemnify and save the Vendor harmless from any and all Claims incurred by the Vendor in the event the Purchaser fails to make such filings.

### 3.4 Receiver's Representations

The Receiver represents and warrants to the Purchaser as follows:

- (a) the Receiver has been duly appointed as the receiver of the Purchased Assets pursuant to the Appointment Order and has full right, power and authority, subject to obtaining the Approval and Vesting Order prior to Closing, to sell the Purchased Assets, in accordance with the terms and conditions of this Agreement and the Approval and Vesting Order; and
- (b) the Receiver is not a non-resident of Canada for purposes of Section 116 of the *Income Tax Act* (Canada).

### 3.5 Survival of Representations, Warranties and Covenants

The representations, warranties, agreements and covenants made by the Purchaser herein or in any other agreement, certificate or instrument delivered by the Purchaser to the Vendor pursuant to this Agreement shall survive the Closing, and notwithstanding the Closing, shall continue in full force and effect for the benefit of the Vendor, without limitation.



## SECTION 4 — CONDITIONS

### 4.1 Purchaser Closing Conditions

The obligation of the Purchaser to complete the Transaction is subject to the following conditions precedent being fulfilled or performed at or prior to the Closing Date (the “**Purchaser Closing Conditions**”):

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true as of the Closing Date in all material respects with the same effect as though made on and as of that date;
- (b) the Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at Closing all the documents contemplated in Section 5.3 or elsewhere in this Agreement;
- (c) intentionally deleted;
- (d) the Appointment Order and the Approval and Vesting Order shall be Final Orders and no order shall have been issued which restrains or prohibits the completion of the Transaction; and
- (e) the Receiver shall have determined in accordance with the Sale Procedure that this Agreement is the Successful Bid.

The Purchaser Closing Conditions are for the exclusive benefit of the Purchaser. Any Purchaser Closing Condition may be waived by the Purchaser in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing.

### 4.2 Purchaser Closing Conditions Not Fulfilled

If any Purchaser Closing Condition has not been fulfilled at or prior to Closing, then the Purchaser in its sole discretion may, either:

- (a) terminate this Agreement by notice to the Vendor, in which event the Purchaser shall be released from its obligations under this Agreement and the Deposit shall be promptly returned to the Purchaser in accordance with and subject to the provisions of Section 2.5 hereof; or
- (b) waive compliance with any such Purchaser Closing Condition, without prejudice to its right of termination in the event of non-fulfillment of any other Purchaser Closing Condition.

### 4.3 Vendor Closing Conditions

The obligation of the Vendor to complete the Transaction is subject to the following

conditions being fulfilled or performed at or prior to the Closing Date (the “**Vendor Closing Conditions**”):

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true as of the Closing Date in all material respects with the same effect as though made on and as of that date;
- (b) the Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents contemplated in Section 5.2 or elsewhere in this Agreement;
- (c) there shall be no litigation or proceedings pending against the Vendor, in respect of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper;
- (d) The Receiver shall have determined in accordance with the Sale Procedure that this Agreement is the Successful Bid; and
- (e) On the closing date, the Appointment Order and the Approval and Vesting Order shall be Final Orders and no order shall have been issued which restrains or prohibits the completion of the Transaction.

The foregoing conditions are for the exclusive benefit of the Vendor. Any condition may be waived by the Vendor in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. The Closing of the Transaction shall deem all conditions to be waived or satisfied.

#### 4.4 Vendor Closing Conditions Not Fulfilled

If any Vendor Closing Condition shall not have been fulfilled at or prior to Closing, then the Vendor in its sole subjective discretion may, without limiting any rights or remedies available to the Vendor at law or in equity, either:

- (a) terminate this Agreement by notice to the Purchaser in which event the Vendor shall be released from all obligations under this Agreement and, unless the Vendor Closing Condition that was not fulfilled was the Vendor Closing Condition contained in Section 4.3(c), the Deposit shall be retained by the Vendor in accordance with the provisions of Section 2.5 hereof; or
- (b) waive compliance with any such Vendor Closing Condition without prejudice to its right of termination in the event of non-fulfillment of any other Vendor Closing Condition.

#### 4.5 Approval and Vesting Order

The obligations of the Vendor and the Purchaser hereunder are subject to the mutual condition that the Vesting Order shall have been made by the Court on a date to be determined by the Receiver approving this Agreement and 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, other than the Permitted Encumbrances. The Parties hereto acknowledge that the foregoing condition has been inserted for the mutual benefit of the Parties and is incapable of waiver. In the event that said condition has not been fulfilled by the aforesaid date, the Transaction shall automatically be deemed to be null and void and of no further force and effect as of said date and provided that the Purchaser is not in default of its obligations hereunder, the Deposit shall be promptly returned to the Purchaser in accordance with and subject to the provisions of Section 2.5 hereof. The Parties further acknowledge that the Application to the Court for the Vesting Order will be made as soon as reasonably practical after the binding Agreement is entered into by the Parties.

## **SECTION 5 — CLOSING**

### **5.1. Closing**

The completion of the Transaction shall take place on the Closing Date or as otherwise determined by mutual agreement of the Parties in writing.

### **5.2. Purchaser's Deliveries on Closing**

On or before Closing, the Purchaser shall execute or deliver as applicable, to the Vendor the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) payment of the Purchase Price;
- (b) a certificate, dated as of the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
- (c) an acknowledgement dated as of the Closing Date, that each of the Purchaser Closing Conditions have been fulfilled, performed or waived as of the Closing Date;
- (d) assignment of the Purchased Assets and assumption of the Assumed Liabilities with an indemnification by the Purchaser in favour of the Vendor for any Claims under the Assumed Liabilities;
- (e) the certificate and indemnity provided for under Section 2.11;
- (f) an undertaking to re-adjust any item on or omitted from the statement of adjustments subject to 60 day limitation period in Section 2.8;
- (g) an environmental release and indemnity indemnifying and holding the

Vendor harmless from any and all damages, claims, actions, losses, costs, liabilities or expenses (collectively "**Damages**") suffered or incurred by the Vendor, directly or indirectly, as a result of or in connection with any of the following, and without restricting the generality of the foregoing, which include Damages incurred in addressing an administrative order by a Government Authority or in addressing a notice, investigation or other process which could reasonably be anticipated to result in such an order:

- (i) the presence, release, or the threat of a release of any Hazardous Materials in, on or under the Property;
  - (ii) the presence of any Hazardous Materials in, on or under properties adjoining or proximate to the Property;
  - (iii) any other environmental matters relating to the Property;
  - (iv) the breach of any Environmental Laws applicable to the Property;
  - (v) the release or threatened release of any Hazardous Materials owned, managed, generated, disposed of, controlled or transported by or on behalf of the Purchaser;
  - (vi) the Environmental Condition; or
  - (vii) the Indemnity provided for in Schedule 3.3; and
- (h) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

### 5.3 Vendor's Deliveries on Closing

- (a) On or before the Closing, the Vendor shall execute and deliver to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:
  - (i) statement of adjustments;
  - (ii) an acknowledgement dated as of the Closing Date, that each of the Vendor Closing Conditions have been fulfilled, performed or waived as of the Closing Date;
  - (iii) an assignment of the Purchased Assets and assumption of the Assumed Liabilities with an indemnification by the Purchaser in favour of the Vendor for any Claims under the Assumed Liabilities;
  - (iv) assignment of all Leases;
  - (v) the Approval and Vesting Order; and
  - (vi) such further and other documentation as is referred to in this

Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

- (b) Upon the completion of the deliveries pursuant to Section 5.2 and 5.3(a), the Vendor shall immediately file a certificate with the Court (the "**Receiver's Certificate**") that the Transaction has been completed and title to the Property shall vest in the Purchaser effective immediately upon the filing with the Court of the Receiver's Certificate and shall deliver to the Purchaser a copy of same.

#### 5.4 Risk

The Purchased Assets shall be and remain at the risk of the Vendor until Closing. From and after Closing, the Purchased Assets shall be at the risk of the Purchaser. In the event that the Purchased Assets shall be damaged prior to Closing, then the Vendor shall advise the Purchaser in writing within twenty-four (24) hours of the Vendor learning of same. In the event that the Purchased Assets shall be materially damaged prior to Closing then the Vendor shall be entitled, in its sole and absolute discretion, to elect to terminate this Agreement by notice, in writing, to the Purchaser and in such event the Parties hereto shall be released from all obligations and liabilities hereunder. If the Vendor shall not elect to terminate this Agreement as set out above, then the Transaction shall be completed in accordance with the terms and conditions hereof and the Purchaser shall be entitled to all proceeds of insurance payable in respect thereof, if any.

#### 5.5 Termination

If either the Vendor or the Purchaser validly terminates this Agreement pursuant to the provisions of Sections 4.2, 4.4, 4.5 or 5.4:

- (a) all the obligations of both the Vendor and Purchaser pursuant to this Agreement shall be at an end; and
- (b) the Purchaser shall have no right to specific performance or any other remedy against, or any right to recover on account of any Claim it may have from, the Vendor.

#### 5.6 Breach by Purchaser

If all of the Purchaser Closing Conditions have been complied with or waived by the Purchaser and the Purchaser fails to comply with the terms of this Agreement, the Vendor may by notice to the Purchaser elect to treat this Agreement as having been repudiated by the Purchaser. In addition, the Purchaser shall pay to the Vendor, on demand, the deficiency, if any, arising upon such resale (after deducting the expenses of resale) together with interest and all other damages or charges occasioned by or resulting from the default by the Purchaser.

#### 5.7 Electronic Registration

In the event that a system for electronic registration ("**Ereg**") is operative and mandatory

in the applicable land registry office, the Purchaser agrees to cause all necessary procedures to be taken, as may be required by the Vendor or the Vendor's solicitors, to complete the Transaction using Ereg in accordance with the Law Society of Ontario's (the "LSO") guidelines. If Ereg is operative on the Closing Date, (i) the Purchaser agrees to use a lawyer authorized to use Ereg and who is in good standing with the LSO, (ii) the Purchaser's solicitors will enter into the Vendor's solicitors' standard form of escrow closing agreement or document registration agreement, which will establish the procedures for closing the Transaction provided same are in accordance with LSO guidelines, and (iii) if the Purchaser's solicitors are unwilling or unable to complete the Transaction using Ereg, then the Purchaser's solicitors must attend at the Vendor's solicitors' office or at another location designated by the Vendor's solicitors at such time on Closing as directed by the Vendor's solicitors to complete the Transaction using Ereg utilizing the Vendor's solicitors' computer facilities, in which event, the Purchaser shall pay to the Vendor's solicitors a reasonable fee therefor.

## SECTION 6 - GENERAL

### 6.1. Further Assurances

Each of the Parties shall, from time to time after the Closing Date, at the request and expense of the other, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such documents and further assurances as may be reasonably necessary to give effect to this Agreement.

### 6.2. Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by electronic transmission, addressed:

in the case of the Purchaser, as follows:

99 Yorkville Avenue, Suite 200  
Toronto, ON M5R 3K5

Attention: Anthony De Francesco  
Telephone No: \_\_\_\_\_  
Email: Frescoestates@hotmail.com

and in the case of the Vendor, as follows:

TDB Restructuring Limited, Court-Appointed  
Receiver of 5004591 Ontario Inc.  
11 King Street West  
Suite 700, PO Box 27  
Toronto, ON M5H 4C7

Attention: Arif Dhanani  
Email: adhanani@tdbadvisory.ca

with a copy to:

Garfinkle Biderman LLP  
801-1 Adelaide Street East  
Toronto, ON M5C 2V9

Attention: Avrom W. Brown  
Email: [abrown@garfinkle.com](mailto:abrown@garfinkle.com)

and a copy to:

Colliers Macaulay Nicolls Inc.  
181 Bay Street, Suite 1400  
Toronto, ON M5J 2V1

Attention: Steve Keyzer  
Email: [steve.keyzer@colliers.com](mailto:steve.keyzer@colliers.com)

Any such notice or other communication, if given by personal delivery, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by electronic transmission before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on that Business Day, and if transmitted by electronic transmission after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

### 6.3. Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor and the Purchaser or by their respective solicitors.

### 6.4. Currency

Except where otherwise indicated, all references herein to money amounts are in Canadian currency.

### 6.5. Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns, provided that the Purchaser shall not assign the benefit of this Agreement without the prior written consent of the Vendor; provided the Purchaser may assign its rights and obligations under this Agreement to an "affiliate" of the Purchaser (as such term is defined in the *Business Corporations Act* (Ontario)), provided that the Purchaser remains liable, jointly, with such affiliate for all the obligations of the Purchaser hereunder. To the extent that any such assignment occurs, this Agreement and all provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

### 6.6. Amendments and Waiver



No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Purchaser and the Vendor. The Vendor and the Purchaser may consent to any such amendment at any time prior to the Closing with the prior authorization of their respective boards of directors.

#### 6.7. Entire Agreement

This Agreement and the attached Schedules constitute the entire agreement between the Parties with respect to the subject matter and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Parties. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the Party to be bound thereby. Subject to the Approval and Vesting Order being issued by the Court, this Agreement is intended to create binding obligations on the part of the Vendor as set forth herein and on acceptance by the Purchaser, is intended to create binding obligations on the part of the Purchaser, as set out herein.

#### 6.8. Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

#### 6.9. Severability

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision's validity or enforceability in any other jurisdiction.

#### 6.10. Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

#### 6.11. Commission

The Vendor shall be responsible for any commissions to the Agent. Any other commissions payable to any other party shall be the responsibility of the Purchaser.

#### 6.12. Certain Words



In this Agreement, the words "including" and "includes" means "including (or includes) without limitation", and "third party" means any Person who is not a Party.

#### 6.13. Statutory References

All references to any statute is to that statute or regulation as now enacted or as may from time to time be amended, re-enacted or replaced and includes all regulations made thereunder, unless something in the subject matter or context is inconsistent therewith or unless expressly provided otherwise in this Agreement.

#### 6.14. Actions to be Performed on a Business Day

Whenever this Agreement provides for or contemplates that a covenant or obligation is to be performed, or a condition is to be satisfied or waived on a day which is not a Business Day, such covenant or obligation shall be required to be performed, and such condition shall be required to be satisfied or waived on the next Business Day following such day.

#### 6.15. No Registrations

The Purchaser hereby covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, 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 Property and the Purchaser shall be deemed to be in default of its obligations hereunder. 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 Property. The Purchaser acknowledges and agrees that until Closing, the Purchaser has no interest in the Property whatsoever, notwithstanding anything to the contrary herein.

#### 6.16. Strict Construction

Each Party acknowledges that it and its legal counsel have reviewed and participated in settling the terms of this Agreement and the Parties agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applicable in the interpretation of this Agreement.

#### 6.17. No Third Party Beneficiaries

This Agreement shall be binding upon and enure solely to the benefit of each of the Parties hereto and its permitted assigns and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement shall be construed to create any rights or obligations except between the Parties, and no person or entity shall be regarded as a third party beneficiary of this Agreement. Each of the

Parties agrees 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, survive the closing of the Transaction.

#### 6.18. Planning Act

This Agreement is entered into subject to the express conditions that it is to be effective only if the provisions of Section 50 of the *Planning Act* (Ontario) and amendments, are complied with.

#### 6.19. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or electronic mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

#### 6.21 Expenses

Each Party shall be responsible for its own legal and other expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transaction and for the payment of any broker's commission, finder's fee or like payment payable by it in respect of the purchase and sale of the Purchased Assets pursuant to this Agreement.


(Remainder of this page intentionally left blank)

6.22 Announcements

Except as required by law including applicable regulatory and stock exchange requirements, all public announcements concerning the Transaction shall be jointly approved as to form, substance and timing by the Parties after consultation.

The Parties have executed this Agreement by their duly authorized officers.

**TDB RESTRUCTURING LIMITED in its capacity as Court-Appointed Receiver and not in its personal capacity**

Per:   
Name: Arif Dhanani, CPA, CA, CIRP, LIT  
Title: Managing Director

LAKESHORE LUXE DESIGN AND BUILD GROUP INC., IN TRUST FOR A CORPORATION TO BE INCORPORATED<\*>

Per:   
DocuSigned by:  
0933A59F063849C... Francesco  
Title: A.S.O.

**Schedule "A"**

**Property**

**PIN No. 10306-0064 (LT) – 2849 Islington Avenue**

Part Lot 22 Concession 6 WYS Township of York as in NY735134; Toronto (N York), City of Toronto

**PIN No. 10306-0035 (LT) – 2857 Islington Avenue**

Part Lot 2 Plan 9059 North York as in TB379983; Toronto (N York), City of Toronto

**PIN No. 10306-0034 (LT) – 2855 Islington Avenue**

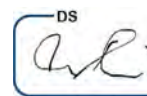
Part Lot 2 Plan 9059 North York as in TB379984; Toronto (N York), City of Toronto

**PIN No. 10306-0033 (LT) – 2853 Islington Avenue**

Part Lot 1 Plan 9059 North York as in TB221318; Toronto (N York), City of Toronto

**PIN No. 10306-0032 (LT) – 2851 Islington Avenue**

Part Lot 1 Plan 9059 North York as in TR92058; Toronto (N York), City of Toronto



## Schedule "B"

### Permitted Encumbrances

"Permitted Encumbrances" means the following:

1. The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act*, R.S.O. 1990, and any amendments thereto or any successor legislation, except paragraph 11;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements or rights of way in favour of any governmental authority or public utility provided that none of the foregoing interfere in any material adverse respect with the current use of the Property;
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due;
5. All agreements and easements, registered or otherwise, for utilities and services for hydro, water, heat, power, sewer, drainage, cable and telephone serving the Property, adjacent or neighbouring properties, provided none of the foregoing interfere in any material adverse respect with the current use of the Property;
6. Any encroachments, minor defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property provided that in either case same do not materially adversely impair the use, operation, or marketability of the Property;
7. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders, deficiency notices and any other noncompliance;
8. Any breaches of any Applicable Laws, including Work Orders;
9. Any subdivision agreements, site plan agreements, developments and any other agreements with the Municipality, Region, publicly regulated utilities or other governmental authorities having jurisdiction;
10. Minor title defects, if any, that do not in the aggregate materially affect the use of the Property for the purposes for which it is used on the date of acceptance of this Agreement;
11. The following specific instruments registered on title against the Property:

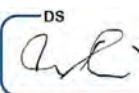
Permitted Encumbrances related to the Property  
(unaffected by the Approval and Vesting Order)

Reg. Num.	Date	Instrument Type	Parties To
NY524794	November 21, 1967	Agreement	The Corporation of the Borough of North York
NY579166	July 20, 1970	By-law exempting Part Lot Control	
NY593705	May 12, 1971	Agreement	The Borough of North York
NY608306	December 29, 1971	Agreement	The Corporation of the Borough of North York
NY620929	July 28, 1972	Municipal By-law	
NY632269	January 29, 1973	Notice of Airport Zoning Regulations	Department of Transportation
TB379984	December 29, 1986	Statutory Declaration of Anthony Dilena	
TR57844	March 27, 2000	Notice	Her Majesty the Queen in Right of the Department of Transport Canada
AT4601553	June 19, 2017	Section 37 Agreement	City of Toronto
AT4601554	June 19, 2017	Rental Housing Agreement	City of Toronto
AT4601555	June 19, 2017	Restriction preventing any Transfer or Charge of the lands or any part thereof without the prior written consent of the Chief Planner, of the City of Toronto	
AT4867240	May 18, 2018	Site Plan Agreement	City of Toronto

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**Schedule "C"**

**Excluded Assets**



## SCHEDULE D

### Sale Procedure

Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated December 6, 2023 and effective December 22, 2023 (the "**Appointment Order**"), RSM Canada Limited was appointed receiver and manager, without security, of the lands and premises set out on **Schedule "B"** attached hereto (the "**Property**") owned by the Debtor(s) and of all of the assets, undertakings and properties of the Debtor(s) acquired for, or used in relation to the Property, including all proceeds thereof.

Pursuant to the Substitution Order of the Ontario Court of Justice (Commercial List) dated March 1, 2024, (the "**Substitution Order**") the name of TDB Restructuring Limited ("**Receiver**") was substituted in the place of the name of RSM Canada Limited.

Accordingly, the following Sale Procedure shall govern the sales process relating to the solicitation by the Receiver of one or more Bids for the Property.

All denominations are in Canadian Dollars.

#### 1. Definitions

Capitalized terms used in this Sale Procedure shall have the definitions given to them in the preamble hereto and as follows:

**"Acknowledgement of Sale Procedure"** means an acknowledgement of the Sale Procedure in the form attached as **Schedule "A"** hereto;

**"Agreement of Purchase and Sale"** shall be the form of Agreement uploaded to Dataroom;

**"Back-up Bid"** means the next highest and/or best Qualified Bid after the Successful Bid, as assessed by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale;

**"Back-up Bidder"** means the Bidder that submits the Back-up Bid;

**"Bid"** means a bid submitted by a Bidder pursuant to Section 7 hereof;

**"Bid Deadline"** means 4 p.m. (Toronto time) on June 3, 2024;

**"Bidder"** means a party that submits a Bid in accordance with Section 8;



**"Confidential Data Room"** means a private data room prepared and maintained by the Receiver or the Listing Agent containing confidential information in respect of or related to the Property;

**"Confidential Information"** means the confidential information in the Confidential Data Room;

**"Confidentiality Agreement"** means an executed confidentiality agreement in form and substance acceptable to the Receiver and its counsel;

**"Debtor(s)"** means, collectively, 5004591 Ontario Inc.;

**"Encumbrances"** means, collectively, all pledges, liens, security interests, encumbrances, claims, charges, options, and interests;

**"Good Faith Deposit"** means a cash deposit in an amount equal to 10% of the purchase price as set out in the Agreement of Purchase and Sale;

**"Interested Party"** means a party participating in this Sale Procedure;

**"Listing Agent"** shall mean Colliers Macaulay Nicolls Inc.;

**"Notice Parties"** means the Receiver, its counsel and the Listing Agent;

**"Participant Requirements"** has the meaning set out in Section 4 hereof;

**"Qualified Bid"** means a Bid that satisfies the conditions set out in Section 7 hereof as determined by the Receiver;

**"Qualified Bidder"** means a Bidder submitting a Qualified Bid;

**"Sale Hearing"** means a Court hearing on motion by the Receiver for an Order to approve the sale of the Property to the Successful Bidder;

**"Successful Bid"** means the highest and best Qualified Bid as determined by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including the Expense Reimbursement, if applicable, and those factors affecting the speed and certainty of consummating the proposed sale; and

**"Successful Bidder"** means the Bidder that submits the Successful Bid.

## 2. Assets for Sale

The Receiver is soliciting offers for all of and not less than all of the right, title and interest of the Receiver and the Debtor(s) in and to the Property.

### **3. Sale Procedure Structure and Bidding Deadlines**

Interested Parties that meet the Participant Requirements shall be given access to the Confidential Information in the Confidential Data Room.

All Bids must be submitted to the Notice Parties by email in accordance with the terms of this Sale Procedure so that they are actually received by each of the Notice Parties no later than the Bid Deadline.

A Bid received after the Bid Deadline shall not constitute a Bid and shall be disqualified. A Bid shall be delivered to all Notice Parties at the same time.

### **4. Participant Requirements**

To participate in the Sale Procedure and to otherwise be considered for any purpose hereunder, each Interested Party must provide the Receiver with each of the following: (i) an executed Confidentiality Agreement; and (ii) an executed Acknowledgement of Sale Procedure (collectively, the "**Participant Requirements**").

### **5. Access to Due Diligence Materials**

Only Interested Parties that satisfy the Participant Requirements ("**Potential Bidders**") will be eligible to receive access to the Confidential Data Room.

The Receiver and the Listing Agent will be responsible for the coordination of all reasonable requests for additional information and due diligence access from Potential Bidders. Neither the Receiver nor the Listing Agent shall be obligated to furnish any due diligence information after the Bid Deadline. Neither the Receiver nor the Listing Agent, nor their agents, shall be responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Property, or any of them.

### **6. Information from Interested Parties**

Each Potential Bidder shall comply with all reasonable requests for additional information by the Receiver and/or the Listing Agent regarding such Potential Bidder and its contemplated transaction. Failure by a Potential Bidder to comply with requests for additional information will be a basis for the Receiver to determine that the Potential Bidder is not a Qualified Bidder.

### **7. Bid Requirements**

In order to be considered a Qualified Bid, as determined by the Receiver, a Bid must satisfy each of the following conditions:

- a) Written Submission of Agreement of Purchase and Sale. The Bid must be

submitted by the Bid Deadline. The Agreement of Purchase and Sale must constitute a written and binding commitment to close on a transaction for the purchase of the Property, on the terms and conditions set forth therein;

- b) Irrevocable. A Bid must be received by the Bid Deadline, in accordance with Section 3 above, and must be irrevocable until the date on which the Receiver obtains court approval of the Successful Bid, subject to the provisions hereof regarding the Back-up Bid being deemed to be the Successful Bid;
- c) Conditions. A Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other terms and conditions associated with a Bid may not, in aggregate, be more burdensome in the sole and exclusive opinion of the Receiver;
- d) Financing Sources. A Bid must be accompanied by: (i) written evidence of a commitment for financing or other evidence of the Bidder's ability to close on the Agreement of Purchase and Sale satisfactory to the Receiver; (ii) appropriate contact information for such financing sources; and (iii) names of all principals of the Purchaser together with names of all development partners whether corporate or personal in sufficient detail to allow the Receiver to make a determination as to the Purchaser's ability to complete the transaction in accordance with the terms of the Agreement of Purchase and Sale;
- e) Intentionally deleted.
- f) Good-Faith Deposit. Each Bid must be accompanied by a Good Faith Deposit that shall be paid to the Receiver's counsel by wire transfer or banker's draft, to be held by the Receiver's counsel in trust in accordance with this Sale Procedure and which shall constitute the Deposit under the Agreement of Purchase and Sale; and
- g) Intentionally deleted.

The Receiver shall be entitled to seek additional information and clarifications from Bidders in respect of their Bids at any time.

**8. Intentionally deleted.**

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**9. Designation as Qualified Bidder**

Following the Bid Deadline, the Receiver shall determine which Bidders are Qualified Bidders. The Receiver shall notify each Bidder of its determination as to whether the Bidder is a Qualified Bidder as soon as practicable after the Bid Deadline.

**10. Determination of Successful Bid**

If one or more Qualified Bids is received by the Bid Deadline, the Receiver may by a date to be determined by the Receiver: (i) conduct an auction amongst the Qualified

Bidders, on terms to be determined by the Receiver and communicated to the Qualified Bidders; and/or (ii) negotiate with the Qualified Bidders to determine the Successful Bid and the Back-up Bid, if any.

Upon determination of the Successful Bid and the Back-up Bid, if any, the Receiver shall, as soon as reasonably practicable, seek Court approval of, and authority to consummate, the Agreement of Purchase and Sale included in the Successful Bid and the transactions provided for therein. The Receiver shall post notice of its application to Court for approval of the Successful Bid on its website established pursuant to the Appointment Order.

If no Qualified Bid is received by the Bid Deadline, then the Sale Procedure shall be terminated.

**11. Intentionally deleted.**

**12. Acceptance of Successful Bid**

Subject to the terms of the Agreement of Purchase and Sale, the Receiver will be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by the Court. The Receiver will be deemed to have accepted a Back-up Bid only when it has been approved by the Court and has been deemed to be a Successful Bid.

**13. Intentionally deleted.**

**14. "As Is, Where Is"**

The sale of the Property, pursuant to this Sale Procedure shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Receiver, the Listing Agent or their respective officers, directors, employees, representatives or agents, except to the extent set forth in the Successful Bid. Each Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Property prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Property in making its Bid, and that it did not, does not, and will not rely on any written or oral statements, representations, promises, warranties, conditions or guarantees whatsoever, whether express or implied or arising by operation of law or otherwise, regarding the Property, made by the Receiver, the Listing Agent or their respective officers, directors, employees, representatives or agents or the accuracy or completeness of any information provided in connection therewith, except as expressly stated in this Sale Procedure or as to another Successful Bidder, the applicable Agreement of Purchase and Sale.

**15. Free Of Any and All Encumbrances**

Except as otherwise provided in the Successful Bid, the Property shall be sold free and clear of all Encumbrances, except the Permitted Encumbrances, in

accordance with an approval and vesting order of the Court, with all Encumbrances on or against the Property that are sold, other than the Permitted Encumbrances, to attach to the net proceeds of the sale of such Property after completion of such sale under a Successful Bid.

#### **16. Back-up Bid**

If the Successful Bid is approved by the Court and the Successful Bidder fails to consummate the transaction in accordance with the terms and conditions of the Successful Bid, the Receiver shall be entitled, but not required, to deem the Back-up Bid the Successful Bid. The Receiver may seek the Court's approval to consummate the transaction with the Back-up Bidder at the Sale Hearing on a conditional basis, or may seek such approval in the event that it deems the Back-up Bid to be the Successful Bid under this section.

#### **17. Return of Good Faith Deposit**

Good Faith Deposits of all Qualified Bidders shall be held in a non-interest bearing account of the Receiver's counsel. Good Faith Deposits of all Qualified Bidders, other than the Successful Bidder and the Back-up Bidder, shall be returned, without interest, to such Qualified Bidders within three (3) business days after the selection of the Successful Bidder and the Back-up Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Good Faith Deposit of the Back-up Bidder shall be returned, without interest, to the Back-up Bidder within three (3) business days after the closing of the transaction(s) contemplated by the Successful Bid. If a Successful Bidder (including any Back-up Bidder deemed to be a Successful Bidder hereunder) fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of its damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-up Bidder, the Good Faith Deposit of the Back-up Bidder shall be applied to the purchase price of the transaction(s) contemplated by the Agreement of Purchase and Sale of the Back-up Bidder at closing.

#### **18. Modifications and Reservations**

This Sale Procedure may be modified or amended by the Receiver, provided that if such modification or amendment materially deviates from this Sale Procedure, such modification or amendment may only be made by order of the Court.

**Schedule "A"**

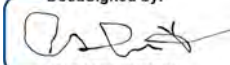
**ACKNOWLEDGEMENT**

TO: TDB Restructuring Limited, in its capacity as court-appointed receiver and manager of the lands and premises described on Schedule "B" (the "**Property**") (the "**Receiver**")

RE: The sale procedure with respect to the sale by the Receiver of the Property (the "**Sale Procedure**")

The undersigned hereby acknowledges receipt of, and its agreement with, the Sale Procedure.

**DATED** this 3<sup>rd</sup> day of June, 2024.

DocuSigned by:  
  
0933A59F063849C

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

**Name:** Anthony De Francesco

**Title:**

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

**Name:**

**Title:**

**I/We have authority to bind the corporation.**

**Schedule "B"**

**PROPERTY**

**PIN No. 10306-0064 (LT) – 2849 Islington Avenue**

**Part Lot 22 Concession 6 WYS Township of York as in NY735134; Toronto (N York), City of Toronto**

**PIN No. 10306-0035 (LT) – 2857 Islington Avenue**

**Part Lot 2 Plan 9059 North York as in TB379983; Toronto (N York), City of Toronto**

**PIN No. 10306-0034 (LT) – 2855 Islington Avenue**

**Part Lot 2 Plan 9059 North York as in TB379984; Toronto (N York), City of Toronto**

**PIN No. 10306-0033 (LT) – 2853 Islington Avenue**

**Part Lot 1 Plan 9059 North York as in TB221318; Toronto (N York), City of Toronto**

**PIN No. 10306-0032 (LT) – 2851 Islington Avenue**

**Part Lot 1 Plan 9059 North York as in TR92058; Toronto (N York), City of Toronto**

**Exhibit “H”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "S.W. Souza". The signature is written in a cursive style with a long horizontal stroke at the end.

---

Commissioner for Taking Affidavits





**TDB Restructuring Limited**  
Licensed Insolvency Trustee

11 King St. W, Suite 700  
Toronto, ON M5H 4C7

info@tdbadvisory.ca  
416-575-4440  
416-915-6228

[tdbadvisory.ca](http://tdbadvisory.ca)

**IN THE MATTER OF THE RECEIVERSHIP OF**  
**311 CONACHER DRIVE, KINGSTON, ONTARIO AND**  
**2849, 2851, 2853, 2855 AND 2857 ISLINGTON AVENUE, TORONTO, ONTARIO**

**THIRD REPORT OF THE RECEIVER**

**NOVEMBER 25, 2024**

**Court File No. CV-23-00701672-00CL**

***ONTARIO***

**SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

**BETWEEN:**

**CAMERON STEPHENS MORTGAGE CAPITAL LTD.**

**Applicant**

**-and-**

**CONACHER KINGSTON HOLDINGS INC. AND 5004591 ONTARIO INC.**

**Respondents**

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## 1.0 INTRODUCTION

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on December 6, 2023, which order was effective December 22, 2023 (the “**Appointment Order**”), RSM Canada Limited was appointed receiver (the “**Receiver**”), without security, of the lands and premises municipally known as 311 Conacher Drive, Kingston, Ontario (the “**Kingston Property**”) and 2849, 2851, 2853, 2855 and 2857 Islington Avenue, Toronto, Ontario (the “**Toronto Property**” and together with the Kingston Property, the “**Properties**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. On March 1, 2024, the Court granted an order substituting the name TDB Restructuring Limited in place of RSM Canada Limited as Receiver (the “**Omnibus Order**”). A copy of the Omnibus Order is attached hereto as **Appendix “B”**.
3. On June 12, 2024, the Receiver entered into an agreement of purchase and sale for the Toronto Property (the “**Terminated APS**”) with Lakeshore Lux and Design Build Group Inc. (“**Lakeshore Lux**”), in trust for 1000944028 Ontario Inc. and sought an Order of the Court approving the transaction and vesting title to the Toronto Property in the purchaser (the “**Lakeshore Lux AVO**”). The Receiver set out in its report dated July 16, 2024 (the “**First Report**”) the Receiver’s marketing efforts and other details in connection with the sale process for the Toronto Property. On July 24, 2024, the Court granted, among other things, the Lakeshore Lux AVO. A copy of the First Report, without appendices, is attached hereto as **Appendix “C”**.
4. The transaction with Lakeshore Lux was scheduled to close on July 30, 2024. As set out in greater detail in the Receiver’s second report dated September 26, 2024 (the “**Second Report**”), after a series of extensions, Lakeshore Lux was unable to close the transaction. On August 27, 2024, the Receiver’s real estate counsel, Garfinkle Biderman LLP, wrote to counsel for Lakeshore Lux to advise that the transaction had been terminated and the deposit paid by Lakeshore Lux, including various extension fees, had been forfeited. The Receiver had its real estate Broker, Colliers Macaulay Nicholls Inc., Brokerage (“**Colliers**”) re-market the Toronto Property for sale. A copy of the Second Report, without appendices, is attached hereto as **Appendix “D”**.

5. On August 13, 2024, the Receiver entered into an agreement of purchase and sale with respect to the Kingston Property (the “**Kingston APS**”). The Receiver sought, among other things, an approval and vesting order in respect of the sale of the Kingston Property (the “**Kingston AVO**”) and the matter was heard on October 9, 2024. On October 31, 2024, the Court released its endorsement (the “**October 31<sup>st</sup> Endorsement**”) and granted the Kingston AVO. A copy of the October 31<sup>st</sup> Endorsement and the Kingston AVO are attached hereto, together, as **Appendix “E”**.
6. The Receiver retained the firm of Paliare Roland Rosenberg Rothstein LLP (“**Paliare Roland**”) as the Receiver’s independent legal counsel. The Receiver retained the firm of Garfinkle Biderman LLP (“**Garfinkle Biderman**”) as the Receiver’s real estate counsel.
7. Terms not defined herein are defined in the First Report and the Second Report.
8. The Appointment Order, together with Court documents related to the receivership proceeding, has been posted on the Receiver’s website, which can be found at <https://tdbadvisory.ca/insolvency-case/311-conacher-drive-kingston-ontario2849-2851-2853-2855-and-2857-islington-avenue-toronto-ontario/>.

## **1.1 Purpose of Report**

9. The purpose of this third report to Court (the “**Third Report**”) is to:
  - (a) provide the Court with an update on the sale of the Kingston Property;
  - (b) specifically with respect to the Toronto Property:
    - i. report to the Court on the results of the re-marketing of the Toronto Property and subsequent offers received for same;
    - ii. provide to the Court support for the relief sought by the Receiver, namely the request for an approval and vesting order in respect of the Toronto Property, and the sealing of certain confidential information pending completion of the sale transaction for the Toronto Property. In addition to the information contained herein for the benefit of the

creditors of the Respondents and other stakeholders, the Third Report is also intended to provide the Court with the following confidential information, for which a sealing Order is sought:

1. a summary of the terms of all offers received for the Toronto Property based on the re-marketing of same;
  2. an unredacted copy of the executed Agreement of Purchase and Sale for the Toronto Property dated September 26, 2024 (the “**Toronto APS**”) between the Receiver and the purchaser of the Toronto Property, or its permitted assignee or as it may direct, as purchaser (the “**Toronto Purchaser**”);
- iii. provide the Court with information relating to the Receiver’s Borrowings Charge;
  - iv. provide the Court with information relating to the secured creditors in respect of the Toronto Property;
- (f) provide the Court with a summary of the Receiver’s cash receipts and disbursements in respect of the Toronto Property for the period December 22, 2023 to November 20, 2024 (the “**Toronto Property Interim R&D**”);
- (g) provide the Court with a summary of the Receiver’s cash receipts and disbursements in respect of the Kingston Property for the period December 22, 2023 to November 20, 2024 (the “**Kingston Property Interim R&D**”);
- (h) request that the Court grant orders:
- iii. approving the Third Report and the activities of the Receiver set out herein;
  - iv. authorizing and directing the Receiver to enter into and carry out the terms of the Toronto APS, together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, and vesting title to the Toronto Property in the Toronto Purchaser upon the

closing of the purchase and sale transaction contemplated in the Toronto APS;

- v. approving the Proposed Interim Distribution of Proceeds from the sale of the Toronto Property;
- vi. sealing Confidential Appendices 1 and 2; and
- vii. approving the fees and disbursements of the Receiver and of the Receiver's independent and real estate counsel.

## **1.2 Terms of Reference**

- 10. In preparing the Third Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the "**Information**"). Certain of the information contained in the Third Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
- 11. Unless otherwise stated, all dollar amounts contained in the Third Report are expressed in Canadian dollars.

## **2.0 KINGSTON PROPERTY UPDATE**

- 12. As set out in the Second Report, the Receiver entered into a purchase and sale agreement with 2349891 Ontario Inc. (the "**Kingston Purchaser**") and the Court issued the Kingston AVO.



13. Pursuant to the terms of the Kingston APS, closing of the transaction was to occur on the later of: (i) three (3) days immediately following the issuance of the Kingston AVO, or the next business day, as applicable; or (ii) October 2, 2024, or such other date as the parties may mutually agree upon. The Receiver agreed with the Kingston Purchaser to closing the transaction for the Kingston Property on November 20, 2024.
14. On November 20, 2024, the Kingston Purchaser advised that it required a 45-day extension to close the transaction. After some negotiation with the Kingston Purchaser, the Receiver agreed to an extension to January 6, 2025 on the basis that an additional deposit of \$500,000 towards the purchase price would be paid by the Kingston Purchaser by noon on November 27, 2024.
15. The second mortgagee, 2462686 Ontario Inc. (“**246**”) has not yet provided the Receiver with its security documentation as at the date of this report and as a result, counsel for the Receiver has been unable to complete its opinions on the validity, enforceability and priority of 246’s charge against the Kingston Property.
16. The third mortgagee, 2478659 Ontario Ltd. (“**247**”), has recently provided the Receiver with its security documentation. The Receiver’s counsel is currently reviewing the documentation provided by 247.

### **3.0 RE-MARKETING AND SALE OF THE TORONTO PROPERTY**

17. After the Receiver terminated the Terminated APS, the Receiver requested that Colliers re-market the Toronto Property. The details of the remarketing and sale of the Toronto Property are described below.

#### **3.1 Toronto Property**

##### **3.1.1 Re-marketing process**

18. On August 29, 2024, the MLS listing for the Toronto Property was changed from sold firm back to available and Colliers sent out an e-mail blast to its database of approximately 3,000 parties.

19. Colliers also contacted all previous bidders and those that signed a confidentiality agreement and had access to Colliers' data room to advise that the Toronto Property was back on the market.
20. With the concurrence of the Receiver, Colliers set a bid deadline date of September 26, 2024 at 3:00 pm.

### **3.1.2 Offers received**

21. Colliers did not receive any additional signed confidentiality agreements from new parties with interest in the property for access to Colliers' data room.
22. On September 26, 2024, Colliers received two (2) offers and one (1) letter of intent for the Toronto Property. A subsequent offer was received on September 28, 2024. The Receiver reviewed the offers from Colliers' re-marketing process with Cameron Stephens, in its capacity as secured lender and mortgagee of the Toronto Property. Based on the offers submitted on September 26, 2024 and the offer submitted on September 28, 2024, the Receiver determined that the offer from the Toronto Purchaser, which was received on September 26, 2024, was the highest and best available offer given, among other things, current market conditions, and should be accepted. A summary of the offers received for the Toronto Property will be filed with the Court as **Confidential Appendix "1"**, under seal.
23. On October 7, 2024, the Receiver and the Toronto Purchaser entered into the Toronto APS. The Toronto APS was conditional on the Toronto Purchaser's due diligence, which condition was to be waived or satisfied by November 6, 2024.
24. On October 27, 2027, the Toronto Purchaser indicated that it was waiving its due diligence condition. On October 29, 2024, both the Toronto Purchaser and the Receiver executed a waiver formalizing same.

### **3.1.3 The agreement of purchase and sale**

25. Salient terms of the Toronto APS and matters relating thereto include:
  - (a) the purchased assets include the Toronto Property;

- (b) the deposit to be provided under the Toronto APS has been received from the Toronto Purchaser;
  - (c) the offer is firm as the Toronto Purchaser has waived all conditions to closing except the issuance of the AVO (as defined below);
  - (d) the Toronto APS is conditional on Court approval and the issuance of an order vesting the Purchased Assets in the Toronto Purchaser free and clear of claims and encumbrances, other than those specifically itemized in the APS (the “**AVO**”);
  - (e) the Toronto Purchaser is buying the Toronto Property on an “as is, where is” basis; and
  - (f) closing of the sale provided for in the APS is scheduled to occur within 10 business days immediately following the date on which the AVO is granted, or the next business day or such other date as the Receiver and the Toronto Purchaser may mutually agree upon.
26. A copy of the Toronto APS, with the purchase price and deposit amount redacted, is attached hereto as **Appendix “F.”** An unredacted copy will be filed as **Confidential Appendix “2”** with the Court, under seal.

#### **3.1.4 Toronto Property sale approval**

27. The Receiver believes that the re-marketing process undertaken by Colliers and the Receiver was appropriate. The Sale Process allowed for sufficient exposure to market for the Toronto Property for the following reasons, among others:
- (a) during the initial sales process for the Toronto Property:
    - i. notice of the sale was sent to approximately 3,000 parties;
    - ii. the Toronto Property was listed for sale on MLS for a period of approximately 10 weeks; and
    - iii. the Toronto Property was listed on Colliers’ website.

- (b) during the re-marketing of the Toronto Property:
  - i. Colliers sent an email blast to the same 3,000 parties;
  - ii. the Toronto Property was re-listed for sale on MLS for a 4-week period;
  - iii. the Toronto Property was re-listed on Colliers's website; and
  - iv. Colliers reached out to all parties that had executed a confidentiality agreement and to the parties that submitted offers during the initial listing.
- 28. Accordingly, based on the above, the Receiver is of the view that the market was widely canvassed and given the length of time on the market, it is unlikely that exposing the Toronto Property to the market for additional time will result in a superior transaction than the one contemplated by the Toronto APS.
- 29. The Receiver recommends the approval of the Toronto APS by the Court. The transaction contemplated by the Toronto APS provides for the greatest recovery available for the benefit of the secured creditors in the circumstances, including Cameron Stephens as first mortgagee on the Kingston Property and Toronto Property. The Receiver understands that Cameron Stephens supports the AVO and the completion of the transaction contemplated in the Toronto APS.

#### **4.0 RECEIVER'S BORROWINGS**

- 30. Pursuant to paragraph 20 of the Appointment Order, the Receiver was empowered to borrow up to \$500,000 at any time for the purpose of funding the exercise of the Receiver's powers and duties. The Appointment Order charged the Properties with a priority charge (the "**Receiver's Borrowings Charge**") subject only to the Receiver's Charge (defined below) and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
- 31. The Receiver borrowed from and issued a Receiver's certificate totaling \$100,000 (the "**Toronto Receiver's Certificate**") against the Toronto Property in favour of

Cameron Stephens. On November 20, 2024, the Receiver repaid the principal of \$100,000 and paid accrued interest thereon of \$6,747.17 to Cameron Stephens.

32. To date, the Receiver has borrowed and has issued a Receiver's Certificate totaling \$150,000 against the Kingston Property (the "**Kingston Receiver's Certificate**"). The Receiver intends to repay the principal and accrued interest thereon in respect of the Kingston Receiver's Certificate from the closing proceeds of the sale of the Kingston Property.

## **5.0 SECURED CREDITORS**

### **5.1 Toronto Property Secured Creditors**

33. As set out in the First Report, copies of the parcel register searches for the Toronto Property were obtained from the Ontario Land Registry Office (collectively, the "**Toronto PIN Reports**"). Copies of the Toronto PIN Reports, dated June 3, 2024, are attached hereto as **Appendix "G"**.
34. The only creditor with a registered charge against the Toronto Property is Cameron Stephens, whose charge is for the registered amount of \$15,600,000.
35. The Receiver has obtained a legal opinion from its independent legal counsel opining that, subject to usual assumptions and qualifications, Cameron Stephens' charge is a valid and enforceable first charge against the Toronto Property.

## **6.0 PROPOSED INTERIM DISTRIBUTION**

### **6.1 Distribution of Toronto Property Proceeds**

36. The Receiver intends to distribute the proceeds from the sale of the Toronto Property upon closing the transaction for the Toronto Property in the following order of priority (such scheme of distribution being the "**Toronto Distribution**"):
  - (a) payment to the City of Toronto for the property taxes owing on the Toronto Property of approximately \$202,488.80, as set out in the First Report, plus

any additional property taxes, further interest or fees owing at the time of closing;

- (b) pay any remaining unpaid fees and disbursements of the Receiver and its counsel relating to the Toronto Property.
- (c) retention of \$100,000 as a holdback amount for the further fees and disbursements of the Receiver and its counsel to close the sale of the Toronto Property and do all things necessary to wind up the receivership administration in respect of the Toronto Property;
- (d) payment of the remaining funds from the sale of the Toronto Property to Cameron Stephens towards the indebtedness owed to it. Cameron Stephens provided a statement setting out the amount of the indebtedness owed to it as at November 25, 2024 (the “**Payout Statement**”), which totals \$16,041,883.30 including fees and interest. A copy of the Payout Statement is attached hereto as **Appendix “H”**.

## **7.0 RECEIPTS AND DISBURSEMENTS**

### **7.1 Toronto Property Interim R&D**

- 37. The Toronto Property Interim R&D for the period from December 22, 2023 to November 20, 2024 sets out cash receipts of \$979,924, including advances made by the Cameron Stephens totaling \$100,000 pursuant to the Toronto Receiver’s Certificate against the Toronto Property, and cash disbursements of \$585,684, resulting in an excess of receipts over disbursements of \$394,240. A copy of the Toronto Property Interim R&D is attached hereto as **Appendix “I”**.

### **7.2 Kingston Property Interim R&D**

- 38. The Kingston Property Interim R&D for the period from December 22, 2023 to November 20, 2024 sets out cash receipts of \$395,061, including advances made by the Cameron Stephens totaling \$150,000 pursuant to the Kingston Receiver’s Certificate against the Kingston Property, and cash disbursements of \$372,523,

resulting in an excess of receipts over disbursements of \$22,538. A copy of the Kingston Property Interim R&D is attached hereto as **Appendix “J”**.

## **8.0 SEALING**

39. The Receiver respectfully requests that the Court seal Confidential Appendices 1 and 2 to this report, being the offer summary relating to the Toronto Property and an unredacted copy of the Toronto APS. The Receiver believes that the offer received and purchase price and deposit amounts contained in the Toronto APS for the Toronto Property should be kept confidential until the completion of sale efforts with respect to the Toronto Property.
40. The inclusion in the public record of the offer summary and an unredacted copy of the Toronto APS (which discloses the purchase price and deposit amount) would be prejudicial to, among other things, the integrity of sales process and any additional marketing efforts that may be needed for the Toronto Property if sale transaction for the Toronto Property fails to close for any reason.
41. The sealing order sought is limited in time and will automatically expire upon the closing of the transaction contemplated in the Toronto APS or further order of the Court. This will ensure that the offers and purchase price provided in the Toronto APS remains confidential until all sale efforts are completed. This is necessary and sufficient to reasonably protect the legitimate stakeholder interests in the circumstances.
42. A full copy of the Toronto APS is being publicly filed as Appendix “F” to this report, with the purchase price and deposit amounts redacted. As a result, the sealing order’s effect on the completeness of the public record, if any, will be minimal.

## **9.0 PROFESSIONAL FEES**

43. The Appointment Order provides that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver were granted a charge (the

“**Receiver's Charge**”) on the Property, as security for such fees and disbursements. The Receiver's Charge is a first charge on the Properties in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

44. The fees and disbursements of the Receiver in relation to the Toronto Property for the period from January 1, 2024 to June 30, 2024 were previously approved by the Court pursuant to an order of the Court dated July 24, 2024.
45. The Receiver's accounts for the period from July 1, 2024 to October 31, 2024 total \$44,179.00 in fees and disbursements, plus HST of \$5,743.27, for a total amount of \$49,922.27. A copy of the Receiver's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Arif Dhanani sworn on November 22, 2024 and is attached hereto as **Appendix “K”**.
46. The fees and disbursements of the Receiver's independent legal counsel, Paliare Roland, in relation to the Toronto Property for the period from January 25, 2024 to June 28, 2024 were previously approved by the Court pursuant to an order of the Court dated July 24, 2024.
47. The accounts of the Receiver's independent legal counsel, Paliare Roland, for the period from February 24, 2024 to October 31, 2024 total \$34,795.53 inclusive of fees, disbursements and HST. A copy of Paliare Roland's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Beatrice Loschiavo sworn on November 22, 2024 and is attached hereto as **Appendix “L”**.
48. The accounts of the Receiver's real estate counsel, Garfinkle Biderman, for the period to August 27, 2024 total \$58,587.69 inclusive of fees, disbursements and HST. A copy of Garfinkle Biderman's interim accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Avrom Brown sworn on November 22, 2024 and is attached hereto as **Appendix “M”**.




## **10.0 RECEIVER'S REQUEST OF THE COURT**

49. Based on the foregoing, the Receiver respectfully requests that the Court grant the orders described in paragraph 9(h) above.

All of which is respectfully submitted to this Court as of this November 25, 2024.

**TDB RESTRUCTURING LIMITED**, solely in its capacity as Receiver of 311 Conacher Drive and 2849, 2851, 2853, 2855 and 2857 Islington Avenue and not in its personal or corporate capacity

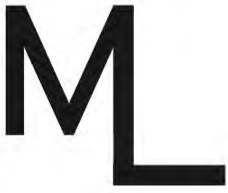
Per:   
Arif Dhanani, CPA, CA, CIRP, LIT  
Managing Director

**Exhibit "T"**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza". The signature is written in a cursive style with a long horizontal stroke at the end.

---

Commissioner for Taking Affidavits



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

• Bankruptcy & Insolvency • Commercial & Civil Litigation • Corporate Law

(416) 417-7257

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

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

📍 2300 Yonge Street, Suite 1600, Toronto, Ontario, M4P 1E4 Canada

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---

**From:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Sent:** October 28, 2024 12:31 PM

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

**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](mailto:lapueinternational@gmail.com)>

**Sent:** Monday, October 28, 2024 12:23 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,

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 • Commerce

(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>

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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>

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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>

**Exhibit “J”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

---

Commissioner for Taking Affidavits

---

**From:** Noah Goldstein <ngoldstein@ksvadvisory.com>  
**Sent:** Sunday, 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>

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---

**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

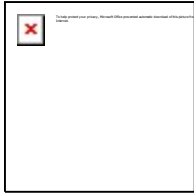
Hi Maya, Noah,

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>



**Exhibit “K”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "J.W. Souza". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

---

Commissioner for Taking Affidavits

---

**From:** Maya Poliak <Maya@chaitons.com>  
**Sent:** November 13, 2024 6:02 PM  
**To:** Howard Manis <hmanis@manislaw.ca>; Pawel Fugiel <lapueinternational@gmail.com>  
**Cc:** Noah Goldstein <ngoldstein@ksvadvisory.com>; Harvey G. Chaiton <Harvey@chaitons.com>; Lynda Christodoulou <LyndaC@chaitons.com>  
**Subject:** RE: MarshallZehr vs La Pue International

Howard you have our position.

---

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

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** Wednesday, November 13, 2024 5:59 PM  
**To:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** 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

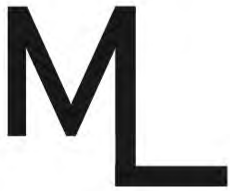
**CAUTION:** [External]

Maya,

Our client has an agreement for financing from a local Toronto financier and expects a firm and binding Commitment with proof of funds by the end of the weekend.

In the circumstances, we trust that the Receiver will not make any decisions in respect of the sale of the subject property until Monday.

Howard



**Howard F. Manis**

**MANIS LAW**

• Bankruptcy & Insolvency • Commercial & Civil Litigation • Corporate Law

(416) 417-7257

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

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

2300 Yonge Street, Suite 1600, Toronto, Ontario, M4P 1E4 Canada

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---

**From:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Sent:** November 13, 2024 10:11 AM

**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Cc:** 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

Howard, I refer you to multiple correspondences sent from ours and the Receiver's office where we consistently advised that your client's offers will not be considered unless they are accompanied by evidence that that he has the financial ability to close the transaction. I also refer you to Noah's email to your office, which is also attached for your reference, dated November 3, 2024 where he asked you to let the Receiver know if Pawel's deal goes firm and expressly advised that the Receiver will continue to market the property.

My email from yesterday was provided as a courtesy to give your client the opportunity to firm up its offer so that the Receiver can consider it along side with its other offer. Pawel's offer will not be considered unless evidence of financing is received. If the Receiver enters into another agreement, we will let you and the service list know.

---

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

---

**From:** Howard Manis [hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)  
**Sent:** Wednesday, November 13, 2024 9:54 AM  
**To:** Maya Poliak [Maya@chaitons.com](mailto:Maya@chaitons.com); Pawel Fugiel [lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)  
**Cc:** 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]

Maya,

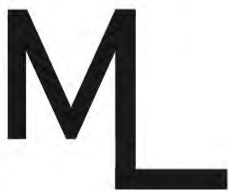
Thanks for your email however, we are confused and perplexed why there is no transparency in the sale of the subject property. Had I not reached out yesterday, we would have been on the outside looking in again despite the fact that we have made two offers and are clearly interested in the purchase of the land.

Moreover, to provide us with a deadline of less than 24 hours is wholly unreasonable and we trust that you agree with this.

Our client has been diligently working on firming up the financing for the purchase of the property and has two interested parties, one of which is well known in Toronto.

We will get back to you as soon as possible and trust that the 4 pm deadline will not be strictly enforced.

Howard



**Howard F. Manis**  
**MANIS LAW**  
• Bankruptcy & Insolvency • Commercial & Civil Litigation • Corporate Law  
(416) 417-7257  
[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)  
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---

**From:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Sent:** November 12, 2024 9:23 PM  
**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** 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

Good evening Howard

The Receiver has received an offer that it is considering. If you want your client's offer to be considered please provide evidence that your client is in funds by 4 pm tomorrow.

---

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

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** Tuesday, November 12, 2024 1:59 PM  
**To:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Cc:** 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]

Maya and Noah,

I am advised that we expect a firm commitment for financing shortly and trust that the Receiver will look favourably on our Offer.

If there are any deadlines or timing that we need to be aware of, please advise.

Howard

**Exhibit “L”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "M. Souza", with a stylized flourish at the end.

---

Commissioner for Taking Affidavits

---

**From:** Howard Manis

**Sent:** November 15, 2024 2:41 PM

**To:** Maya Poliak <Maya@chaitons.com>; Noah Goldstein <ngoldstein@ksvadvisory.com>

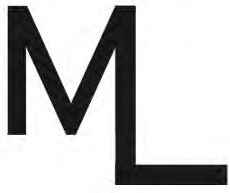
**Cc:** Pawel Fugiel <lapueinternational@gmail.com>

**Subject:** FW: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Maya,

Please see below as to our current progress towards confirming the financing available to our client to fund his Offer and we have counsel for the lender moving as fast as practically possible.

Howard



**Howard F. Manis**

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**From:** Simon Ashby <[s.ashby@krblaw.ca](mailto:s.ashby@krblaw.ca)>

**Sent:** November 15, 2024 2:35 PM

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

**Cc:** Chris Karamatsos <[Chris@krblaw.ca](mailto:Chris@krblaw.ca)>; Albert Guido <[AGuido@fiducia.ca](mailto:AGuido@fiducia.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Hi Howard,

Thanks for reaching out. We are in the process of finalizing the commitment letter and will provide a copy for review and approval later today. As soon as this is executed by the borrower our client will provide the requested proof of funds.

Thanks,  
Simon



**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

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**Cc:** Chris Karamatsos <[Chris@krblaw.ca](mailto:Chris@krblaw.ca)>; Albert Guido <[AGuido@fiducia.ca](mailto:AGuido@fiducia.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

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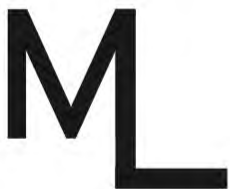
Simon,

As we need to respond to the Receiver, I am reaching out to find out the timing of our receipt of the Commitment and confirmation/proof of funds available to your client.

Please advise.

We appreciate that you are moving quickly and thank you for same.

Howard



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**Sent:** November 14, 2024 5:28 PM  
**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Cc:** Chris Karamatsos <[Chris@krblaw.ca](mailto:Chris@krblaw.ca)>; Albert Guido <[AGuido@fiducia.ca](mailto:AGuido@fiducia.ca)>  
**Subject:** Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Good afternoon Howard,

We represent the interests of Fiducia Ventures Inc. in connection with the above. We were briefed this afternoon by Albert Guido (cc'd) on the proposal and understand there some urgency to it. To this end, Albert will be circulating an engagement letter to your client directly, and we are currently expediting the draft loan commitment which will follow tomorrow. Upon approval and execution of the loan commitment, our client will arrange for the requested proof of funds, which we understand will enable you to coordinate with your existing lender and provide the documents necessary to support your extension or redemption efforts.

We look forward to working with you on this.

Regards,  
Simon



**Simon Ashby**

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**Exhibit “M”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "M. Souza", with a stylized flourish at the end.

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Commissioner for Taking Affidavits

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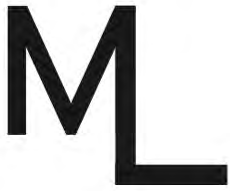
**From:** Howard Manis  
**Sent:** November 15, 2024 8:33 PM  
**To:** Maya Poliak <Maya@chaitons.com>; Noah Goldstein <ngoldstein@ksvadvisory.com>  
**Cc:** Pawel Fugiel <lapueinternational@gmail.com>  
**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Maya,

Please find attached the signed Commitment between our client and the lender.

We hope to have proof of funds tomorrow from counsel for the lender.

Howard



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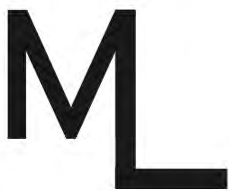
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**Cc:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>  
**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Maya,

Further to my earlier email, we have received the Commitment, are reviewing it and expect to sign it by tomorrow.

Once it is signed, confirmation of funds will be provided.

Howard



**Howard F. Manis**  
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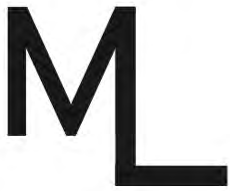
**Cc:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

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Howard



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**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Hi Howard,

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Thanks,  
Simon



Simon Ashby

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Howard



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We look forward to working with you on this.

Regards,  
Simon



**Simon Ashby**  
*Sociétaire Sénior | Senior Associate*

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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:

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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



**Exhibit “N”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "M. Souza", with a stylized flourish at the end.

---

Commissioner for Taking Affidavits

---

**From:** Howard Manis  
**Sent:** November 18, 2024 11:01 AM  
**To:** 'Noah Goldstein' <ngoldstein@ksvadvisory.com>  
**Cc:** Maya Poliak <Maya@chaitons.com>; Pawel Fugiel <lapueinternational@gmail.com>  
**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Noah,

I am advised that we will receive an unconditional Commitment shortly along with confirmation of funds.

We trust that this will be satisfactory to the Receiver.

Howard



**Howard F. Manis**

**MANIS LAW**

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(416) 417-7257

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

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---

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

**Sent:** November 15, 2024 8:38 PM

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

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

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

This has numerous conditions. Can you please have lender confirm its unconditional.

Noah Goldstein

416.844.4842

On Nov 15, 2024, at 8:33 PM, Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)> wrote:

Maya,

Please find attached the signed Commitment between our client and the lender.

We hope to have proof of funds tomorrow from counsel for the lender.

Howard

<image001.png>

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---

**From:** Howard Manis

**Sent:** November 15, 2024 5:49 PM

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

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

**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Maya,

Further to my earlier email, we have received the Commitment, are reviewing it and expect to sign it by tomorrow.

Once it is signed, confirmation of funds will be provided.

Howard

<image001.png>

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---

**From:** Howard Manis

**Sent:** November 15, 2024 2:41 PM

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

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

**Subject:** FW: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Maya,

Please see below as to our current progress towards confirming the financing available to our client to fund his Offer and we have counsel for the lender moving as fast as practically possible.

Howard

<image001.png>

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---

**From:** Simon Ashby <[s.ashby@krblaw.ca](mailto:s.ashby@krblaw.ca)>

**Sent:** November 15, 2024 2:35 PM

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

**Cc:** Chris Karamatsos <[Chris@krblaw.ca](mailto:Chris@krblaw.ca)>; Albert Guido <[AGuido@fiducia.ca](mailto:AGuido@fiducia.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Hi Howard,

Thanks for reaching out. We are in the process of finalizing the commitment letter and will provide a copy for review and approval later today. As soon as this is executed by the borrower our client will provide the requested proof of funds.

Thanks,  
Simon

<image002.png>

**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)

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---

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

**Sent:** November 15, 2024 12:29 PM

**To:** Simon Ashby <[s.ashby@krblaw.ca](mailto:s.ashby@krblaw.ca)>

**Cc:** Chris Karamatsos <[Chris@krblaw.ca](mailto:Chris@krblaw.ca)>; Albert Guido <[AGuido@fiducia.ca](mailto:AGuido@fiducia.ca)>; Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>

**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

You don't often get email from [hmanis@manislaw.ca](mailto:hmanis@manislaw.ca). [Learn why this is important](#)

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**CAUTION :** This email originated from outside of KRB. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Simon,

As we need to respond to the Receiver, I am reaching out to find out the timing of our receipt of the Commitment and confirmation/proof of funds available to your client.

Please advise.

We appreciate that you are moving quickly and thank you for same.

Howard

<image001.png>

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---

**From:** Simon Ashby <[s.ashby@krblaw.ca](mailto:s.ashby@krblaw.ca)>  
**Sent:** November 14, 2024 5:28 PM  
**To:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Cc:** Chris Karambatsos <[Chris@krblaw.ca](mailto:Chris@krblaw.ca)>; Albert Guido <[AGuido@fiducia.ca](mailto:AGuido@fiducia.ca)>  
**Subject:** Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Good afternoon Howard,

We represent the interests of Fiducia Ventures Inc. in connection with the above. We were briefed this afternoon by Albert Guido (cc'd) on the proposal and understand there some urgency to it. To this end, Albert will be circulating an engagement letter to your client directly, and we are currently expediting the draft loan commitment which will follow tomorrow. Upon approval and execution of the loan commitment, our client will arrange for the requested proof of funds, which we understand will enable you to coordinate with your existing lender and provide the documents necessary to support your extension or redemption efforts.

We look forward to working with you on this.

Regards,  
Simon

<image002.png>

**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)

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<Commitment signed by client - November 15, 2024.pdf>

**Exhibit “O”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "M. Souza", with a stylized flourish at the end.

---

Commissioner for Taking Affidavits

---

**From:** Howard Manis  
**Sent:** November 21, 2024 2:56 PM  
**To:** Noah Goldstein <ngoldstein@ksvadvisory.com>; Maya Poliak <Maya@chaitons.com>  
**Cc:** Pawel Fugiel <lapueinternational@gmail.com>  
**Subject:** FW: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

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 & Civil Litigation • Corporate Law

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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

**Exhibit “P”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "M. Souza", with a stylized flourish at the end.

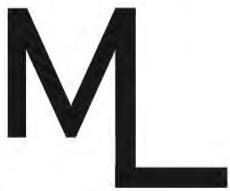
---

Commissioner for Taking Affidavits

## Daniel Litsos

---

**From:** Howard Manis  
**Sent:** Thursday, December 12, 2024 2:04 PM  
**To:** Daniel Litsos  
**Subject:** FW: FW: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON  
**Attachments:** Signed. v3\_Ferry St. LC Draft - (3224148.2) copy.pdf



**Howard F. Manis**

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---

**From:** Pawel Fugiel <lapueinternational@gmail.com>  
**Sent:** November 21, 2024 3:44 PM  
**To:** Howard Manis <hmanis@manislaw.ca>  
**Cc:** Noah Goldstein <ngoldstein@ksvadvisory.com>; Maya Poliak <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**

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**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

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 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 **February 12<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 confirming the current as-is value for the Property considering the 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 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:

21 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.



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Guarantor: *Pawel Fugiel*

SCHEDULE "A"

Source and Use of Funds (Estimated)

Internal Estimate for Sources and Uses - Not for 3rd Party Reliance			
Estimate Sources		Estimated Uses	
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

**Exhibit “Q”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024

A handwritten signature in blue ink, appearing to read "M. Souza", with a stylized flourish at the end.

---

Commissioner for Taking Affidavits

La Banque de Nouvelle-Écosse  
3828, boul. Côte-Vertu  
Saint-Laurent, Québec  
Canada H4R 1P8  
Tél. : (514) 748-7751  
Télééc. : (514) 748-1115



Thursday, November 21<sup>st</sup>, 2024,

**\*\*Disclaimer:\*\***

The updated Proof of Funds (POF) will be issued following the Borrower's full engagement and the retention of Aird & Berlis. The Nov 21 2024, original POF was provided upon request and signing of the Land Loan commitment. Please note that this updated POF reflects specific account information and does not include details of other accounts held at the Bank.

Re: Proof of Funds Letter  
CDS Financial Group

To whom it may concern,

We, The Bank of Nova Scotia, located at 3828 Boulevard Cote Vertu, Saint-Laurent, QC, H4R 1P8 hereby confirm that our client, CDS Financial Group, is a client of our bank and has always been in good standing. CDS Financial Group has a total combined balance of cash deposits with our bank of CAD \$ \$19,700,000. These funds are clear of any holds, liens or obligations.

Please know that CDS Financial Group is a valuable client of our bank and if you require any further information or have any questions, please do not hesitate to contact me directly at the information found below.

**Dennis Mastoropoulos**  
Directeur de Succursale  
**Banque Scotia | Succursale Saint-Laurent**  
3828 Cote-Vertu Boulevard, Saint-Laurent, Quebec, Canada, H4R 1P8  
T 514-748-1195 X 4000 F 514-748-1115  
[dennis.mastoropoulos@scotiabank.com](mailto:dennis.mastoropoulos@scotiabank.com)



**Exhibit “R”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024



---

Commissioner for Taking Affidavits

M. D'Souza

## ADVISORY SERVICES AGREEMENT

This Advisory Services Agreement (the "Agreement") is entered into on November 14<sup>th</sup>, 2024 (the "Effective Date"), by and between:

**La Pue International Inc. and its directors and shareholders (the "Client"),  
and CDS Financial Group Inc. together with Fiducia Ventures Inc. (the "Advisor").**

WHEREAS the Client wishes to engage the Advisor to provide advisory and strategic services related to the proposed development of the property located at 5528 Ferry Street, Niagara Falls, ON (the "Property"); and WHEREAS, the Advisor agrees to provide such services under the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

### 1. Scope of Services

The Advisor will provide the following services:

1.1 Review and identify planning and development requirements for the Property.

1.2 Advise and assist the Client in obtaining land and development financing for the Property.

1.3 Organize meetings and facilitate information exchange among key consultants to complete a study of the Property for debt and equity financing purposes.

1.4 Negotiate and structure terms for funding transactions, including sourcing debt and equity financing for the Property.

1.5 Facilitate an interim land loan commitment, including proof of available funds for a first mortgage payout of up to \$22,000,000.

### 2. Compensation and Payment Terms

#### 2.1 Work Fee

The Client shall pay a non-refundable work fee of \$50,000, payable to CDS Financial Group Inc. or as directed.

#### 2.2 Retainer for Legal Services

The Client shall pay a legal retainer of \$5,000 to KRB Lawyers for legal services related to this engagement.

#### 2.3 Expedited Loan Processing and Proof of Funds Fee ("POF Fee")

The Client agrees to allocate 1% of the required funds as a POF Fee. This amount will be held "in trust" with the Client's lawyer and released to CDS Financial Group Inc. upon execution of the loan agreement and prior to the release of confirmation of the Proof of Funds.

### 3. Proof of Funds ("POF") Summary Terms

3.1 A non-refundable work fee of \$50,000 is allocated to CDS Financial Group upon execution of this Agreement.

3.2 The Client agrees to grant exclusivity to the Advisor for providing land and construction funding for all phases of the project.



3.3 CDS Financial Group's compensation for providing a \$20 Million POF and Fiducia Group's advisory fee for the same will collectively amount to 1% of the POF.

3.4 The Client shall deposit 1% of the POF amount (\$200,000) with their lawyer, who will hold the funds "in trust."

3.5 The Client's lawyer will confirm receipt of the \$200,000 trust deposit and provide irrevocable instructions to wire the funds to CDS Financial Group immediately after receiving the POF confirmation.

3.6 Upon confirmation of receipt of the \$200,000 wire transfer, CDS Financial Group's law firm (KRB Lawyers) will issue the POF confirmation to the Client's lawyer.

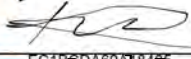
4. Binding Terms and Conditions

- (a) Legal Fees – Legal fees incurred by the Advisor in respect of all matters relating to this Advisory Services Agreement, the Definitive Agreements and the POF facility shall be deemed to be Project costs due and payable by the Client, on the account of the Client.
- (b) Costs – The Client acknowledges that the Advisor has and will continue to expend time and incur costs in connection with reviewing the Project and preparing the POF, underwriting the Land Loan Commitment and the project construction financing.
- (c) Exclusivity – The Client agrees to grant exclusivity to the Advisor commencing on the date of acceptance of this agreement until the expiry of the Exclusivity Period. In that regard, the Client undertakes not to enter into or pursue any form of discussion or negotiation with any third party in respect of Project Lands.
- (d) Confidentiality – Subject to obligations at law in general, the parties agree not to disclose the existence of this agreement save and accept to their professional advisors and, only to the extent that they obtain, where required, confidentiality agreements from all such advisors.

4. Acceptance of Terms      Nov-21-2024

By signing this Agreement, both parties acknowledge and agree to its terms and conditions.

For La Pue International Inc.

DocuSigned by:  
  
EC1BDD462A184F5  
Name: Pawel Fugiel  
Title: Ceo

For CDS Financial Group Inc. and Fiducia Ventures Inc.

Albert Guido  
Name: Albert Guido  
Title: President

**Exhibit “S”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024



---

Commissioner for Taking Affidavits  
M. D'Souza

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

**Exhibit “T”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024



---

Commissioner for Taking Affidavits

M. D'Souza

---

**From:** Howard Manis  
**Sent:** November 22, 2024 1:53 PM  
**To:** Maya Poliak <Maya@chaitons.com>  
**Cc:** Pawel Fugiel <lapueinternational@gmail.com>; Noah Goldstein <ngoldstein@ksvadvisory.com>  
**Subject:** Re: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

18 is best for me

Sent from my iPhone

On Nov 22, 2024, at 2:47 PM, Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)> wrote:

Howard December 9 and 18<sup>th</sup> are available. Please let us know if you are not available on either of those dates.

---

Maya Poliak | Partner  
Chaitons LLP | T: 416.218.1161

---

**From:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>  
**Sent:** Friday, November 22, 2024 1:26 PM  
**To:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Cc:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>  
**Subject:** Re: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

CAUTION: [External]

I assume that we will contest it Maya.

As far as dates are concerned please advise what dates the court offers and we will advise of our availability.

Sent from my iPhone

On Nov 22, 2024, at 1:53 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)>

**Exhibit “U”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024



---

Commissioner for Taking Affidavits

M. D'Souza

---

**From:** Howard Manis

**Sent:** November 27, 2024 4:38 PM

**To:** Maya Poliak <Maya@chaitons.com>; Pawel Fugiel <lapueinternational@gmail.com>

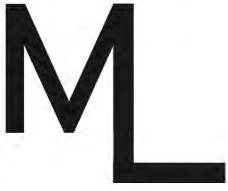
**Cc:** Noah Goldstein <ngoldstein@ksvadvisory.com>

**Subject:** RE: Proposed financing with La Pue International Inc. - 5528 Ferry Street, Niagara Falls, ON

Maya,

As advised, we will be opposing the motion so please ensure that we are served with your Motion Record with ample time to respond thereto.

Howard



**Howard F. Manis**

**MANIS LAW**

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---

**From:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Sent:** November 25, 2024 12:12 PM

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

**Cc:** Howard Manis <[hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>

**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](mailto:lapueinternational@gmail.com)>

**Sent:** Friday, November 22, 2024 9:16 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)>

**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,

**Exhibit “V”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024



---

Commissioner for Taking Affidavits  
M. D'Souza

---

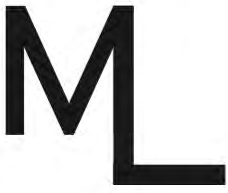
**From:** Howard Manis  
**Sent:** December 10, 2024 11:31 AM  
**To:** Noah Goldstein <ngoldstein@ksvadvisory.com>; Maya Poliak <Maya@chaitons.com>  
**Cc:** Pawel Fugiel <lapueinternational@gmail.com>  
**Subject:** RE: MarshallZehr

Thanks Noah.

Are you proceeding with the motion for the AVO as we have not been served with the Motion Record and we will need time to prepare our responding material and time is getting short?

Let us know as we are prepared to close on our Offer and funds have been confirmed.

Howard



**Howard F. Manis**

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

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---

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

**Sent:** December 10, 2024 11:26 AM

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

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

**Subject:** Re: MarshallZehr

Howard,

We are at approximately \$250,000 (+HST). As you know, fees accumulate everyday.

Thanks,

Noah

Noah Goldstein

(m) 416.844.4842

---

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

**Sent:** Sunday, December 8, 2024 11:58 AM

**To:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Cc:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>

**Subject:** RE: MarshallZehr

Maya,

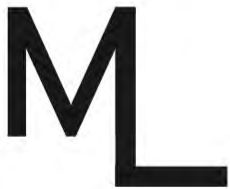
As we previously advised, we will be opposing the motion for the AVO so please ensure that we are served with your Motion Record with ample time to respond thereto.

We also continue to await the estimate of the professional fees from both the Receiver and counsel.

Lastly, we are reviewing the Discharge Statement that you provided as the amount seems very exaggerated.

We await hearing from you.

Howard



**Howard F. Manis**

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(416) 417-7257

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

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---

**From:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Sent:** December 5, 2024 12:54 PM

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

**Cc:** Pawel Fugiel <[lapueinternational@gmail.com](mailto:lapueinternational@gmail.com)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>

**Subject:** RE: MarshallZehr

Howard, please find attached MZ's discharge statement as at December 18, 2024.

---

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

---

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

**Sent:** Monday, December 2, 2024 3:39 PM

**To:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Exhibit “W”**  
to the Affidavit of Pawel Fugiel  
Sworn this 17<sup>th</sup> day of December, 2024



---

Commissioner for Taking Affidavits  
M. D'Souza

---

**From:** Cesare Della Santina <cesare@cdfsfinancial.group>

**Sent:** December 16, 2024 10:31 PM

**To:** Howard Manis <hmanis@manislaw.ca>

**Cc:** aguido@fiducia.ca

**Subject:** Confirmation of funds

Dear Howard,

This email confirms that we are the designated lenders for Pawel Fugiel's (in Trust) loan offer. We can verify that:

1. The required funds are currently available for this transaction
2. A Proof of Funds letter from Scotia Bank was provided on November 21, 2024, at Mr. Fugiel's request
3. We are prepared to transfer the funds to our lawyer's trust account in escrow, as per our agreement with Mr. Fugiel

Please let us know if you require any additional information.

Sincerely,

Cesare Della Santina  
CDS Financial Group Inc.

514-919-9090



**MARSHALLZEHR GROUP INC.**  
**Applicant**

- and -

**LA PUE INTERNATIONAL INC.**  
**Respondents**

**CV-23-00700695-00CL**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceedings Commenced at TORONTO  
(COMMERCIAL LIST)

**AFFIDAVIT OF PAWEL FUGIEL**

**MANIS LAW**

2300 Yonge Street, Suite 1600  
Toronto, Ontario, M4P 1E4

**Howard Manis** (LSO # 34336V)  
Email: [hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)  
Phone: (416)364-5289

**Daniel Litsos** (LSO #79628V)  
Email: [dlitsos@manislaw.ca](mailto:dlitsos@manislaw.ca)

Lawyers for the Respondent,  
La Pue International Inc.

**MARSHALLZEHR GROUP INC.**  
Applicant

- and -

**LA PUE INTERNATIONAL INC.**  
Respondents

CV-23-00700695-00CL

---

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceedings Commenced at TORONTO  
(COMMERCIAL LIST)

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**RESPONDING MOTION RECORD**

---

**MANIS LAW**

2300 Yonge Street, Suite 1600  
Toronto, Ontario, M4P 1E4

**Howard Manis** (LSO # 34336V)  
Email: [hmanis@manislaw.ca](mailto:hmanis@manislaw.ca)  
Phone: (416)364-5289

**Daniel Litsos** (LSO #79628V)  
Email: [dlitsos@manislaw.ca](mailto:dlitsos@manislaw.ca)

Lawyers for the Respondent,  
La Pue International Inc.