

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

BETWEEN:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

and

2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY

Respondent

**MOTION RECORD
(returnable November 28, 2024)**

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond Lamek (LSO #33338U)
Tel: (416) 365-4444
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver

Foremost Mortgage Holding Corporation v. 2521311 Ontario Inc. o.a. Towns of Thornbury

SERVICE LIST

KSV RESTRUCTURING INC.

220 Bay Street, 13th Floor
Toronto, ON M5J 2W4

Bobby Kofman / Maha Shah

Tel: (416) 932-6228 / (587) 287-9958
Email: bkofman@ksvadvisory.com / mshah@ksvadvisory.com

Court-Appointed Receiver

DLA PIPER (CANADA) LLP

1 First Canadian Place - Suite 6000
100 King Street West
Toronto, Ontario M5X 1E2

Edmond Lamek

Tel: (416) 365-4444
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1

Jeffrey Larry

Tel: (416) 646-4330
Email: jeff.larry@paliareroland.com

Dan Rosenbluth

Tel: (416) 646-6307
Email: daniel.rosenbluth@paliareroland.com

Ryan Shah

Tel: (416) 646-6356
Email: ryan.shah@paliareroland.com

Lawyers for Foremost Mortgage Holding Corporation

SAMPOGNA LAW FIRM
75 Dufflaw Road, Suite 201A
Toronto, ON M6A 2W4

Vanessa Sampogna
Tel: 1 (800) 507-6577 ext. 2
Email: vanessa@sampognalaw.com

Lawyers for 2521311 Ontario Inc. o.a. Towns of Thornbury and Nick Sampogna

BENNETT GRANT LLP
55 King Street West, 6th Floor
Kitchener, ON N2G 4W1

Edward Dreyer
Tel: (519) 744-4491 etc. 225
Email: edreyer@kw-law.com

Lawyers for Weatherall Enterprises Ltd.

PALLET VALO LLP
77 City Centre Drive, West Tower, Suite 300
Mississauga, ON L5B 1M5

Maria Ruberto
Tel: (289) 805-3441
Email: mruberto@pallettvalo.com

Lawyers for Cooper Equipment Rentals Limited and Toromont Industries Ltd.

UNIFIED LLP
197 Spadina Avenue, Suite 400
Toronto, ON M5T 2C8

Michael Paiva
Tel: (416) 800-1733
Email: michael@unifiedllp.com

Spencer Roberts
Tel: (416) 800-1733
Email: spencer@unifiedllp.com

Lawyers for KFA Architects & Planners Inc.

VANI LAW OFFICE
3-6 Dixon Road
Toronto, ON M9P 2L1

Gjergji Vani
Tel: (416) 477-7642
Email: gvani@vanilawoffice.com

Lawyers for Ecostar Insulation

KUNG LO & JIA LLP
8920 Woodbine Avenue, Unit 204
Markham, ON L3R 9W9

Jason Huang-Kung
Tel: (647) 598-1815
Email: jason@kljlaw.ca

Lawyers for Northstar Spray Foam and Insulation Inc.

SOLMON ROTHBART TOURGIS SLODOVNICK LLP
375 University Avenue, Suite 701
Toronto, ON M5G 2J5

Rajiv Joshi
Tel: (416) 947-1093 ext. 268
Email: rjoshi@srtslegal.com

Lawyers for Jose Cruz

TORYS LLP
79 Wellington Street West, 33rd Floor
TD South Tower
Toronto, ON M5K 1N2

Adam Slavens
Tel: (416) 865-7333
Email: aslavens@torys.com

Lawyers for Tarion Warranty Corporation

BORDEN LADNER GERVAIS LLP

22 Adelaide Street West
Bay Adelaide Centre, East Tower
Toronto, ON M5H 4E3

James MacLellan

Tel: (416) 367-6592
Email: jmaclellan@blg.com

Lawyers for Berkley Insurance Company

Dean MacDonald / Jacqueline Sinkeldam

Tel: (519) 831-8755
Email: jackie@eramosaphysio.com

Andrea Lyons / David Wilson

Tel: (416) 460-4222 / (416) 458-2275
Email: andrea.kinglyons@bell.ca

Rafat Salim

Tel: (416) 788-7223
Email: rafat@rafat.ca

Szabolcs Erchegyi

Tel: (416) 732-8792
Email: generalenergy@live.ca

Leslie Kennedy / Stephanie Kennedy

Tel: (905) 599-7009 / (905) 330-7549
Email: e.pettinato@on.aibn.com

Gregory Heller / Janet McCallum

Tel: (416) 347-1545
Email: janetmccallum@gmail.com

Janet Doddato

Tel: (416) 801-6563
Email: janetdoddato@yahoo.ca

Virginia Smith

Email: sgini2016@gmail.com

Aliaksandr Pahotski

Tel: (416) 854-5421

Email: apahotski@icloud.com

Yahor Pahotski

Tel: (416) 854-5421

Email: oggi5289@gmail.com

Galit Daniels

Tel: (416) 418-1897

Email: galitdaniels@gmail.com

2660891 Ontario Inc.

Tel: (416) 689-7960

Email: r.lynch@blockwall18.ca

Marharyta Pahotskaya

Tel: (416) 854-5421

Email: smsframe.trim@gmail.com

Carolyn Griffiths / Andrew Lammer

Tel: (519) 836-0079

Email: andy@lammergroup.com

Mark Anevich / Nancy Philpott

Tel: (416) 473-5354 / (250) 862-0533

Email: markanevich@hotmail.com / nanphilpott@gmail.com

EMAIL SERVICE LIST

bkofman@ksvadvisory.com; mshah@ksvadvisory.com; edmond.lamek@dlapiper.com;
jeff.larry@paliareroland.com; daniel.rosenbluth@paliareroland.com; ryan.shah@paliareroland.com;
vanessa@sampongalaw.com; edreyer@kw-law.com; mruberto@pallettvalo.com;
michael@unifiedllp.com; spencer@unifiedllp.com; gvani@vanilawoffice.com; jason@kljlaw.ca;
rjoshi@srtslegal.com; aslavens@torys.com; jmaclellan@blg.com; jackie@eramosaphysio.com;
andrea.kinglyons@bell.ca; rafat@rafat.ca; generalenergy@live.ca; e.pettinato@on.aibn.com;
janetlmccallum@gmail.com; janetdoddata@yahoo.ca; sgini2016@gmail.com;
apahotski@icloud.com; oggi5289@gmail.com; galitdaniels@gmail.com; r.lynch@blockwall18.ca;
smsframe.trim@gmail.com; andy@lammergroup.com; markanevich@hotmail.com;
nanphilpott@gmail.com;

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

BETWEEN:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

and

2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY

Respondent

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TAB 1

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

BETWEEN:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

and

2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY

Respondent

NOTICE OF MOTION

KSV RESTRUCTURING INC. (“KSV”), in its capacity as the receiver (the “**Receiver**”) of the property, assets and undertakings (collectively, the “**Property**”) of 2521311 Ontario Inc. o.a. Towns of Thornbury (the “**Company**”), will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), on Thursday, November 28, 2024 at 11:30AM, or as soon after that time as the motion can be heard.

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

THE MOTION IS FOR:

1. an Order substantially in the form attached at Tab 3 of the Motion Record, among other things:
 - (a) validating and abridging the time for service of this Notice of Motion and the Motion Record and directing that any further service of the Notice of Motion and Motion Record be dispensed with such that this Motion is properly returnable on the date scheduled for the hearing of this Motion;

- (b) authorizing the Receiver, on behalf of the Company, to terminate and disclaim all agreements of purchase and sale (the “**APs**”) entered into between the Company and the purchasers (the “**Home Buyers**” and each, a “**Home Buyer**”) of townhome units in the Towns of Thornbury development (the “**Project**”);
- (c) approving the Second Report of the Receiver dated November 14, 2024 (the “**Second Report**”) and the activities of the Receiver described therein;
- (d) approving the fees and disbursements of the Receiver and the Receiver’s legal counsel, DLA Piper (Canada) LLP, as set out in the fee affidavits attached as Appendices “A” and “B” to the Second Report, as well as the fee accrual set out in the Second Report to complete the Receiver’s administration of the receivership proceeding;
- (e) terminating the receivership proceeding and discharging the Receiver effective upon the Receiver filing a certificate with the Court confirming that all outstanding matters in the receivership proceeding have been completed (the “**Discharge Certificate**”) and releasing KSV, upon its discharge as Receiver, from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the part of KSV; and
- (f) such other and further relief as counsel may request and this Honourable Court may allow.

THE GROUNDS FOR THE MOTION ARE:

2. the Company is a real estate development company that was developing the Project on the real property municipally known as Lot 10 Louisa Street, Thornbury, Ontario (the “**Real Property**”);

3. the Company pre-sold 21 townhomes and collected deposits from the Home Buyers totalling approximately \$1.64 million (the “**Deposits**”) which were insured by Berkley Insurance Company (“**Berkley**”). All but approximately \$53,000 of the Deposits were spent by the Company prior to the Receiver’s appointment;
4. pursuant to the Order of the Honourable Justice Cavanagh dated December 19, 2023, KSV was appointed as the interim receiver of the Property, including the Real Property;
5. pursuant to a further Order of the Honourable Justice Cavanagh dated February 5, 2024, KSV was appointed as Receiver and a sale process was approved for the sale of the Property;
6. the Receiver entered into an agreement of purchase and sale dated August 8, 2024 (the “**APS**”) with Louisa Street GP Inc., on behalf of Louisa Street Limited Partnership, as assignee from Foremost Mortgage Holding Corporation (“**Foremost**”), pursuant to which the Real Property and certain other Property would be sold (the “**Transaction**”);
7. pursuant to the Order of the Honourable Madam Justice Conway dated August 15, 2024, the APS and the Transaction were approved and the Transaction closed on August 23, 2024;

The Home Buyer Deposits

8. Tarion Warranty Corporation (“**Tarion**”) provides deposit protection coverage if a sale is not completed. The amount of coverage provided depends on whether the purchase agreement was signed before or after January 1, 2018. If before, deposits are protected to a maximum amount of \$40,000 whereas if the purchase agreement was signed after the aforementioned date, deposit coverage depends on the purchase price and coverage may potentially reach a maximum amount of \$100,000;
9. given that Berkley provided deposit insurance to the Home Buyers, they may be covered for any amounts in excess of the portion covered by Tarion;

10. Tarion has advised that it will not process any deposit return claims until the APSs have been terminated;
11. if the Receiver is authorized to terminate the APSs on behalf of the Company, the Home Buyers' deposit return claims will then be processed by Tarion;
12. Tarion and Berkley have provided the Receiver with a draft deposit return protocol and the Receiver has advised both parties that it is prepared to facilitate the process provided the Receiver's costs are covered by Tarion and/or Berkley;

Lien Holdback

13. during the course of the receivership proceedings, the Receiver became aware of three construction liens that had been registered on title to the Real Property;
14. pursuant to the ancillary Order of the Honourable Madam Justice Conway dated August 15, 2024, a lien holdback was established in the amount of \$66,713.24 being an amount equal to 10% of the aggregate of the contract prices stated by the lien claimants in their registered lien claims (the "**Lien Holdback**");
15. the Receiver proposes to maintain the Lien Holdback following the granting of the Order discharging the Receiver and that it shall be a condition of the Receiver's filing the Discharge Certificate that the Lien Holdback shall have been paid in accordance with agreements between the lien claimants and Foremost or an Order of the Court;
16. the Receiver has largely completed its duties in administering the receivership proceeding which is now substantially complete with the exception of (i) the Receiver, Tarion and Berkley agreeing to terms on and facilitating the deposit return protocol and (ii) the resolution of the Lien Holdback;

17. once these matters have been completed, the Receiver's duties and responsibilities will be complete and it is appropriate that the Receiver be discharged upon the filing of the Discharge Certificate;
18. such further and other grounds as set out in the Second Report; and
19. Rules 1.04, 1.05, 2.01, 2.03, 16.04 and 37 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended.

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

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

November 14, 2024

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond Lamek (LSO No. 33338U)
Tel: (416) 365-4444
Email: edmond.lamек@dlapiper.com

Lawyers for the Receiver

FOREMOST MORTGAGE HOLDING CORPORATION
Applicant

and

2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

NOTICE OF MOTION
(returnable November 28, 2024)

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond Lamek (LSO No. 33338U)
Tel.: (416) 365-4444
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver

TAB 2



**Report to Court of
KSV Restructuring Inc. as
Receiver of 2521311 Ontario Inc.**

November 14, 2024

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Court File NO.: CV-23-00710990-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
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BETWEEN:

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- and -

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Respondent

REPORT OF KSV RESTRUCTURING INC.
AS RECEIVER

November 14, 2024

1.0 Introduction

1. Pursuant to an application by Foremost Mortgage Holding Corporation ("**Foremost**"), the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued an order on December 19, 2023 (the "**Interim Receivership Order**") appointing KSV Restructuring Inc. ("**KSV**") as the interim receiver (the "**Interim Receiver**"), without security, of all of the assets, undertakings and properties of 2521311 Ontario Inc. o.a. Towns of Thornbury (the "**Company**") acquired for, or used in relation to a business carried on by the Company (the "**Property**"), including the real property municipally known as Lot 10 Louisa Street, Thornbury, ON (the "**Real Property**"), pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the "**BIA**").
2. On February 5, 2024, the Court issued an order (the "**Receivership Order**") appointing KSV as receiver (the "**Receiver**") of the Property and approving the Receiver's proposed sale process for the Property (the "**Sale Process**").
3. The principal focus of the receivership proceedings has been to conduct the Sale Process for the Real Property.
4. On August 8, 2024, the Receiver prepared and filed its first report to Court (the "**First Report**") which recommended that the Court issue:
 - a) an approval and vesting order (the "**AVO**"):
 - (i) approving an agreement of purchase and sale dated August 8, 2024 ("the "**APS**") between the Receiver and Louisa Street GP Inc., on behalf of Louisa Street Limited Partnership, as assignee from Foremost Mortgage Holding Corporation (the "**Purchaser**"), and authorizing the Receiver to complete the sale of the Real Property and certain other Property (the "**Purchased Assets**") to the Purchaser (the "**Transaction**"); and

- (ii) transferring and vesting all of the Company's and the Receiver's right, title and interest in and to Purchased Assets in the Purchaser, free and clear of all liens, charges, security interests and encumbrances, other than permitted encumbrances, following the Receiver's delivery of the Receiver's certificate; and
 - b) an order (the "**Ancillary Order**");
 - (i) establishing a holdback (the "**Lien Holdback**") in the amount of \$66,713.24 in relation to the Registered Lien Claims (as defined below) to be held by the Receiver pending resolution of the Registered Lien Claims;
 - (ii) permitting the Receiver to pay to Foremost, without further order of the Court, the difference between the amount held back for each Registered Lien Claim and the amount paid in respect of each Registered Lien Claim; and
 - (iii) approving the First Report, the Receiver's activities, and the fees and disbursements of the Receiver and its legal Counsel, DLA Piper (Canada) LLP ("**DLA**").
5. On August 15, 2024, the Court granted the AVO and Ancillary Order.

1.1 Purposes of this Report

1. The purposes of this second report (the "**Report**") are to:
 - a) advise the Court of the closing of the Transaction;
 - b) update the Court regarding the status of the Registered Lien Claims;
 - c) provide the Receiver's rationale for seeking the Court's authorization to terminate the agreements of purchase and sale (each an "**APS**") entered into between the Company and home buyers ("**Home Buyers**") so that Home Buyers can make claims to Tarion Warranty Corporation ("**Tarion**") in respect of their deposits paid to the Company, prior to the commencement of these receivership proceedings;
 - d) advise the Court why it is now appropriate for the Receiver to be discharged, subject to filing the Discharge Certificate (as defined below) with the Court confirming that all outstanding matters in this receivership have been completed, particularly in respect of the Registered Lien Claims; and
 - e) recommend that the Court issue an Order:
 - (i) authorizing the Receiver to terminate and disclaim the APSs on behalf of the Company;
 - (ii) discharging the Receiver upon the filing of the discharge certificate (the "**Discharge Certificate**");

- (iii) releasing the Receiver from any and all liabilities that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting as Receiver, except those arising from its gross negligence or willful misconduct on the Receiver's part;
- (iv) approving the fees and disbursements of the Receiver and of DLA, as described in this Report and the Fee Affidavits; and
- (v) approving this Report and the Receiver's activities detailed herein.

1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon information provided by the Company and Foremost. The Receiver has not performed an audit or other verification of such information.
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the information relied upon to prepare this Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own due diligence.

1.3 Currency

1. All currency references in this Report are in Canadian dollars.

2.0 Background

1. The Company is a real estate development company. The Company was developing a 23-unit townhome development known as the Towns of Thornbury (the "**Project**") on the Real Property.
2. Closings of the sales of townhomes were originally scheduled to be completed in January of 2022; however, as of the date of the Receivership Order, the Project was still under construction.
3. Prior to these proceedings, the Receiver was advised by Foremost that it would cost millions of dollars to address the construction deficiencies and to complete the Project notwithstanding that the Project was already millions of dollars over budget. Feedback from interested parties who participated in the Sale Process confirmed the significant costs and uncertainties related to remediating and completing the Project.
4. The Company pre-sold 21 townhomes and received deposits from Home Buyers totalling approximately \$1.64 million (the "**Deposits**"). The Receiver understands that all but approximately \$53,000 of the Deposits were spent by the Company prior to the commencement of these proceedings. The Receiver also understands that the Deposits are insured by Berkley Insurance Company ("**Berkley**"). Berkley has a second mortgage registered on the Real Property in the principal amount of \$1,679,000 as security for its insurance obligation.

5. Additional information about the Company and its background is set out in the affidavit of Paul Rayment, Executive Vice President of Foremost Financial Inc., an affiliate of Foremost, sworn on December 11, 2023 (the "**Rayment Affidavit**") and in the First Report. A copy of the Rayment Affidavit, the First Report and other materials filed in these proceedings can be found on the Receiver's website at www.ksvadvisory.com/experience/case/towns-of-thornbury (the "**Case Website**").

3.0 Transaction and Lien Holdback

1. The Transaction closed on August 23, 2024 (the "**Closing Date**"). A detailed description of the Transaction was provided in the First Report and is not repeated herein.
2. During the receivership proceedings, the Receiver became aware of several construction liens registered against the Real Property, as follows:
 - a) Cooper Equipment Rentals Limited ("**Cooper**") registered a construction lien in the amount of \$71,634 on December 6, 2023 for amounts claimed as owing under a contract with a contract price of \$71,634 (based on a preventent arrangement);
 - b) Weatherall Enterprises Ltd. ("**Weatherall**") registered a construction lien in the amount of \$224,873 on December 18, 2023 for amounts claimed as owing under a contract with a contract price of \$310,128.04; and
 - c) KFA Architects & Planners Inc. ("**KFA**") registered a construction lien in the amount of \$285,369 on April 10, 2024 for amounts claimed as owing under a contract with a contract price of \$285,369.56 (together, the "**Registered Lien Claims**").
3. In connection with approval of the Transaction, the Receiver established a Lien Holdback in the amount of \$66,713.24 (equal to 10% of the aggregate of the contract prices stated by the lien claimants' Registered Lien Claims), allocated as follows:
 - a) Cooper: \$7,163;
 - b) Weatherall: \$31,013; and
 - c) KFA: \$28,537.
4. Since the Closing Date, settlement discussions have been ongoing to settle the Registered Lien Claims; however, as of the date of this Report, those discussions have not been successful.
5. The Receiver proposes to continue to hold the Lien Holdback amount and recommends that it be a condition of the filing of the Receiver's discharge certificate that the Registered Lien Claims be resolved consensually or pursuant to further order of the Court.

4.0 Home Buyer Deposits

1. During these proceedings, the Receiver has received numerous inquiries from Home Buyers regarding, among other things, the return of their deposits.
2. Tarion provides deposit protection coverage if a sale is not completed. If Home Buyers signed purchase agreements for freehold homes before January 1, 2018, their deposits are protected by Tarion up to a maximum of \$40,000. For purchase agreements signed on or after January 1, 2018, deposit coverage depends upon the purchase price of the home. For homes with a purchase price of \$600,000 or less, deposit coverage is up to \$60,000. For homes with a sale price of over \$600,000, deposit coverage is up to 10% of the purchase price to a maximum of \$100,000. Home Buyers may be covered by Berkley for amounts in excess of the portion covered by Tarion.
3. Tarion's typical policy is that it will not process deposit return claims until each Home Buyer's APS is terminated. Tarion is taking that approach in this receivership. Accordingly, the Receiver is seeking the Court's authorization to terminate all APSs.
4. Tarion and Berkley have provided the Receiver with a draft deposit return protocol (the "**Protocol**"). As there is no funding to carry out the Protocol without funding from Tarion and/or Berkley, the Receiver has advised Tarion that it is prepared to carry out the process contemplated by the Protocol provided its costs are covered by Tarion and/or Berkley. As of the date of this Report, no response has been received from Tarion or Berkley in this regard.

5.0 Receiver's Activities

1. The Receiver's activities since the First Report have included:
 - a) closing the Transaction;
 - b) corresponding with the Company's creditors and Home Buyers;
 - c) corresponding with Tarion and Berkley regarding deposits paid by Home Buyers;
 - d) working with DLA, Foremost and Paliare Roland LLP, counsel to Foremost, to resolve the lien claims;
 - e) drafting this Report and reviewing and commenting on the motion materials in respect of this motion; and
 - f) maintaining the Case Website, including posting documents, such as application materials, reports, orders, notices, etc.

6.0 Professional Fees

1. Pursuant to paragraph 21 of the Receivership Order, the Receiver and its counsel are to be paid their reasonable fees and disbursements at their standard rates and charges, incurred both before and after the making of the Receivership Order. Pursuant to the Receivership Order, the Receiver and its counsel shall pass their accounts from time to time.

2. The Receiver seeks to have its fees and disbursements, including those of its legal counsel, approved by the Court. The Receiver and its counsel have maintained detailed records of their professional time and costs.
3. The total fees for the Receiver from August 1, 2024 to October 31, 2024 are \$39,008.50, plus disbursements of \$4.90 and HST of \$5,071.74. The time spent by the Receiver is more particularly described in the Affidavit of Robert Kofman provided in **Appendix "A"**.
4. The total fees for DLA from August 1, 2024 to October 31, 2024 are \$57,910, plus disbursements of \$815.75, and applicable taxes of \$7,572.05. The time spent by DLA is more particularly described in the Affidavit of Edmond Lamek provided in **Appendix "B"**.
5. It is the Receiver's opinion that the fees and disbursements of the Receiver and DLA accurately reflect the work done by the Receiver, and on behalf of the Receiver by DLA Piper, in connection with the receivership and the administration of the receivership for the dates of their respective invoices.
6. It is also the Receiver's opinion that the fees and disbursements of DLA are fair and reasonable and justified in the circumstances. The Receiver is of the view that DLA's hourly rates are consistent with the rates charged by other law firms practicing in the area of insolvency in the Toronto market, and that its fees are reasonable and appropriate in the circumstances. The Receiver recommends approval of DLA's accounts by this Court.
7. The fees and disbursements of the Receiver and DLA to finalize the administration of the receivership is estimated to be \$24,000, plus applicable taxes.

7.0 Receiver's Discharge

1. The Receiver is of the view that it is appropriate at this time to seek an order of this Court discharging the Receiver, subject to the Receiver filing a certificate (the "**Certificate**") with this Court confirming that the matters addressed in this Report have been resolved, including the Registered Lien Claims. The discharge of the Receiver would be effective on the filing of the Certificate. The draft discharge order also contemplates that:
 - a) the Receiver shall remain the Receiver for the performance of such incidental duties as may be required to complete the administration of these proceedings; and
 - b) the Receiver shall continue to have the benefit of the provisions of all orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of the Receiver. This will allow the Receiver to address any issue that may arise following its discharge. This is a customary provision in the model discharge order granted in receivership proceedings.

8.0 Conclusion and Recommendation

1. For the reasons set out in this Report, the Receiver is of the view that the relief requested herein is reasonable and appropriate in the circumstances and respectfully recommends that this Honourable Court issue the orders granting the Receiver's requested relief.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
SOLELY IN ITS CAPACITY AS RECEIVER OF
2521311 ONTARIO INC. AND NOT IN ITS PERSONAL
OR CORPORATE CAPACITY**

Appendix “A”

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

**IN THE MATTER OF THE RECEIVERSHIP OF 2521311 ONTARIO INC. o.a.
TOWNS OF THORNBURY**

**AFFIDAVIT OF ROBERT KOFMAN
(sworn November 6, 2024)**

I, **ROBERT KOFMAN**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

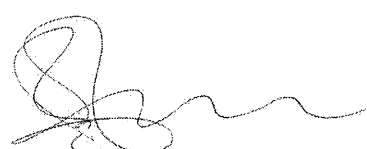
1. I am the President of KSV Restructuring Inc. ("**KSV**"), the Court-appointed Receiver (the "**Receiver**") of 2521311 ON Inc. o.a. Towns of Thornbury (the "**Company**") and as such I have knowledge of the matters deposed to herein.
2. Pursuant to an order issued by the Ontario Superior Court of Justice (Commercial List) on February 5, 2024 (the "**Receivership Order**"), KSV was appointed as Receiver of all of the assets, undertakings and properties of the Company.
3. This Affidavit is sworn in support of a motion seeking, among other things, approval of the Receiver's fees and disbursements for the period August 1, 2024 to October 31, 2024 (the "**Period**").
4. The Receiver's invoices for the Period disclose in detail: the nature of the services rendered; the time expended by each person and their hourly rates; the total charges for the services rendered; and the disbursements charged. Copies of the Receiver's invoices are provided in **Exhibit "A"** and the billing summary is attached hereto as **Exhibit "B"**.
5. The Receiver spent a total of 72.80 hours on this matter during the Period, resulting in fees totalling \$39,008.50, excluding disbursements and HST, as summarized in Exhibit "B".
6. As reflected in Exhibit "B", the Receiver's average hourly rate for the Period was \$535.83.

7. I verily believe that the time expended and the fees charged are reasonable in light of the services performed and the prevailing market rates for services of this nature in downtown Toronto.

SWORN before me at the City of)
Toronto, in the Province of Ontario)
this 6th day of November, 2024)



Rajinder Kashyap, a Commissioner, etc.,
Province of Ontario, for KSV Restructuring Inc.
Expires February 23, 2027



ROBERT KOFMAN

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF ROBERT KOFMAN

Sworn before me

this 6th day of November, 2024



Rajinder Kashyap, a Commissioner, etc.,
Province of Ontario, for KSV Restructuring Inc.
Expires February 23, 2027



ksv advisory inc.

220 Bay Street, Suite 1300

Toronto, Ontario, M5J 2W4

T +1 416 932 6262

F +1 416 932 6266

ksvadvisory.com

INVOICE

2521311 Ontario Inc. o/a Towns of Thornbury
c/o KSV Restructuring Inc.
220 Bay Street, Suite 1300
Toronto, ON M5J 2W4

September 9, 2024

Invoice No: 3895
HST #: 818808768RT0001

Re: 2521311 Ontario Inc. o/a Towns of Thornbury (the "Company")

For professional services rendered in August 2024 by KSV Restructuring Inc. ("**KSV**") in its capacity as receiver (the "**Receiver**") of the Company pursuant to a receivership order issued by the Ontario Superior Court of Justice (the "**Court**") on February 5, 2024, including:

- corresponding with Foremost Mortgage Holding Corporation ("**Foremost**"), the Company's senior mortgagee, Paliare Roland Rosenberg Rothstein LLP ("**Paliare Roland**"), legal counsel to Foremost, and DLA Piper LLP ("**DLA**"), legal counsel to the Receiver, regarding the sale of the Company's real property and related property ("**Real Property**") to Louisa Street GP Inc. (the "**Transaction**");
- addressing matters pertaining to completion of the Transaction, including, but not limited to, reviewing and finalizing the Asset Purchase Agreement and corresponding with Foremost and legal counsel concerning same;
- working with legal counsel to prepare motion materials to seek approval of the Transaction;
- preparing the Receiver's First Report to Court dated August 8, 2024 recommending that the Court issue orders, among other things, approving the Transaction and the fees of the Receiver and its counsel, establishing a holdback for certain liens registered on title to the Real Property, and permitting certain distributions to Foremost;
- reviewing and commenting on drafts of the Approval and Vesting Order and Ancillary Relief Order;
- attending the sale approval motion on August 15, 2024;
- preparing a budget for Foremost outlining the estimated costs to wind-up the receivership proceedings;

- preparing a funding request for Foremost and issuing a Receiver's Certificate dated August 22, 2024 to Foremost in respect of same;
- closing the Transaction and corresponding with legal counsel concerning same;
- dealing with contractors who liened the Real Property and corresponding with DLA regarding same;
- considering issues related to the return of deposits to home buyers, and contacting Tarion Warranty Corporation in respect of same;
- corresponding with the Company's creditors and providing, among other things, updates regarding the receivership proceedings;
- preparing statements of receipts and disbursements;
- maintaining the Receiver's case website; and
- attending to all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	\$ 17,484.90
HST	<u>2,273.04</u>
Total Due	\$ <u>19,757.94</u>

KSV Restructuring Inc.
2521311 Ontario Inc. o.a. Towns of Thornbury

Time Summary

For the period of August 1, 2024 to August 31, 2024

Personnel	Rate (\$)	Hours	Amount (\$)
Bobby Kofman	850	11.90	10,115.00
Maha Shah	450	13.10	5,895.00
Other staff and administration		6.90	1,470.00
Total Fees		31.90	17,480.00
Add: Out of pocket disbursements (postage)			4.90
Total Fees and Disbursements			17,484.90



ksv advisory inc.

220 Bay Street, Suite 1300
Toronto, Ontario, M5J 2W4
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F +1 416 932 6266

ksvadvisory.com

INVOICE

2521311 ON Inc. o/a Towns of Thornbury
c/o KSV Restructuring Inc.
220 Bay Street, Suite 1300
Toronto ON M5J 2W4

October 11, 2024

Invoice No: 3966
HST #: 818808768RT0001

Re: 2521311 ON Inc. o/a Towns of Thornbury (the "Company")

For professional services rendered in September 2024 by KSV Restructuring Inc. ("**KSV**") in its capacity as receiver (the "**Receiver**") of the Company pursuant to a receivership order issued by the Ontario Superior Court of Justice (the "**Court**") on February 5, 2024, including:

- corresponding with Foremost Mortgage Holding Corporation ("**Foremost**"), the Company's senior mortgagee, Paliare Roland Rosenberg Rothstein LLP, legal counsel to Foremost, and DLA Piper LLP, legal counsel to the Receiver, regarding the remaining matters in these proceedings;
- preparing a comparison of estimated wind-up costs for the receivership proceedings versus the actual costs to-date, including, among other things, payments related to liens registered against the Company's real property, insurance premiums, and professional fees;
- considering issues related to the return of deposits to home buyers ("**Home Buyers**"), and corresponding in this regard with Home Buyers, DLA, Tarion Warranty Corporation and Borden Ladner Gervais, LLP, legal counsel to Berkley Insurance Company, the deposit insurer;
- preparing the Receiver's Second Report to Court recommending that the Court issue orders, among other things, discharging the Receiver upon filing a certificate by the Receiver and authorizing the Receiver to terminate and disclaim the agreements of purchase and sale between the Company and Home Buyers;
- corresponding with the Company's creditors and providing, among other things, updates regarding the receivership proceedings;
- maintaining the Receiver's case website; and
- attending to all other meetings, correspondence, etc. pertaining to this matter.

Total fees per attached time summary	\$ 11,668.00
HST	1,516.84
Total Due	\$ <u>13,184.84</u>

KSV Restructuring Inc.
2521311 ON Inc. o.a. Towns of Thornbury

Time Summary

For the period of September 1, 2024 to September 30, 2024

Personnel	Rate (\$)	Hours	Amount (\$)
Bobby Kofman	850	4.00	3,400.00
Maha Shah	450	17.90	8,055.00
Other staff and administration		1.00	213.00
Total Fees		22.90	11,668.00



ksv advisory inc.

220 Bay Street, Suite 1300
Toronto, Ontario, M5J 2W4
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F +1 416 932 6266

ksvadvisory.com

INVOICE

2521311 ON Inc. o/a Towns of Thornbury
c/o KSV Restructuring Inc.
220 Bay Street, Suite 1300
Toronto, ON M5J 2W4

November 7, 2024

Invoice No: 4012
HST #: 818808768RT0001

Re: 2521311 ON Inc. o/a Towns of Thornbury (the "Company")

For professional services rendered in October 2024 by KSV Restructuring Inc. ("**KSV**") in its capacity as receiver (the "**Receiver**") of the Company pursuant to a receivership order issued by the Ontario Superior Court of Justice (the "**Court**") on February 5, 2024, including:

- corresponding with Foremost Mortgage Holding Corporation ("**Foremost**"), the Company's senior mortgagee, Paliare Roland Rosenberg Rothstein LLP, legal counsel to Foremost, and DLA Piper LLP, legal counsel to the Receiver, regarding the remaining matters in these proceedings;
- considering issues related to the return of deposits to home buyers ("**Home Buyers**"), and corresponding in this regard with Home Buyers and DLA;
- preparing a notice to Home Buyers regarding the Receiver's intention to seek Court approval to disclaim the agreements of purchase and sale entered into between the Company and Home Buyers ("**Purchase Agreements**");
- preparing the Receiver's Second Report to Court recommending that the Court issue orders, among other things, discharging the Receiver upon filing a certificate by the Receiver and authorizing the Receiver to terminate and disclaim the Purchase Agreements;
- corresponding with the Company's creditors and providing, among other things, updates regarding the receivership proceedings;
- maintaining the Receiver's case website; and
- attending to all other meetings, correspondence, etc. pertaining to this matter.

Total fees and disbursements per attached time summary	\$ 9,860.50
HST	1,281.87
Total Due	\$ <u>11,142.37</u>

KSV Restructuring Inc.
2521311 ON Inc. o.a. Towns of Thornbury

Time Summary

For the period of October 1, 2024 to October 31, 2024

Personnel	Rate (\$)	Hours	Amount (\$)
Bobby Kofman	850	5.50	4,675.00
Maha Shah	450	10.60	4,770.00
Other staff and administration		1.90	415.50
Total Fees		18.00	9,860.50

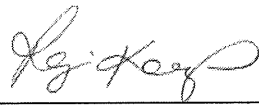
Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF ROBERT KOFMAN

Sworn before me

this 6th day of November, 2024



Rajinder Kashyap, a Commissioner, etc.,
Province of Ontario, for KSV Restructuring Inc.
Expires February 23, 2027

Exhibit "B"

2521311 ON Inc. o.a. Towns of Thornbury

Time Summary

For the Period August 1, 2024 to September 30, 2024

Name	Hours	Hourly Rate	Total (\$)
Bobby Kofman	21.40	\$ 850	18,190.00
Maha Shah	41.60	\$ 450	18,720.00
Other Staff and administration	9.80	\$ 195 - 225	2,098.50
	<u>72.80</u>		<u>39,008.50</u>
Average hourly rate			535.83

Appendix “B”

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

BETWEEN:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

and

2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY

Respondent

**FEE AFFIDAVIT OF EDMOND LAMEK
(SWORN NOVEMBER 5, 2024)**

I, EDMOND LAMEK, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a partner in the law firm of DLA Piper (Canada) LLP (“**DLA**”), the solicitors to KSV Restructuring Inc., in its capacity as receiver of the property, assets and undertakings of 2521311 Ontario Inc. o.a. Towns of Thornbury (the “**Receiver**”) and, as such, I have knowledge of the matters hereinafter deposed to.

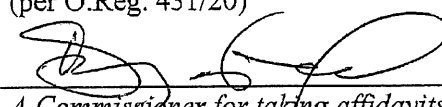
2. Attached hereto as **Exhibit “A”** are copies of the Statements of Account of DLA in respect of services rendered to the Receiver for the period from August 1, 2024 to October 31, 2024 (the “**Billing Period**”). During the Billing Period, the total fees billed by DLA were \$57,910, plus disbursements of \$815.75 and applicable taxes of \$7,572.05.

3. As set out in the following table, 73.7 hours were billed by DLA personnel during the Billing Period, resulting in an average hourly rate of \$785.75 (exclusive of applicable taxes):

Lawyers	Hours	2024 Rate/Hr.
Edmond Lamek	31.7	\$950
Howard Krupat	2.3	\$825
Jonathan Born	6.5	\$775
Danny Nunes	25.4	\$700
Brendan Wu	5.2	\$425
Law Clerks		
Lindsey Blair	1.2	\$350
Tara Khatter	1.2	\$325
Susan Li	0.2	\$300
TOTAL	73.7	Avg. Rate/Hr: \$785.75


4. The activities detailed in the Statements of Account attached as Exhibit "A" accurately reflect the services provided by DLA and the rates charged are the standard hourly rates of those individuals at DLA at the time they were incurred.

5. I swear this affidavit in support of a motion for, *inter alia*, approval of the fees and disbursements of DLA set out above and for no other or improper purpose.

Sworn before me at the)
City of Mississauga, in the)
Province of Ontario, this)
5th day of November, 2024.)
(per O.Reg. 431/20))
)
A Commissioner for taking affidavits, etc.)
DANNY NUNES


EDMOND LAMEK

This is Exhibit ²A referred to in the
affidavit of... EDMOND LAMER
sworn before me, this... 5th
day of... NOVEMBER... 20²⁴


.....
A COMMISSIONER FOR TAKING AFFIDAVITS

DANNY NUNES



DLA Piper (Canada) LLP
Suite 6000, 1 First Canadian Place
PO Box 367, 100 King St W
Toronto ON M5X 1E2
www.dlapiper.com
T 416.365.3500
F 416.365.7886

KSV Restructuring Inc.
220 Bay Street
13th Floor, PO Box 20
Toronto, ON M5J 2W4 Canada

September 18, 2024

Attention: Bobby Kofman

INVOICE NUMBER: 2314744
FILE NUMBER: 103454-00009
BUSINESS NUMBER: REG # 110 152 824
FROM THE OFFICE OF: Edmond Lamek
DIRECT LINE: 416.365.3444

For Professional Services rendered and/or disbursements advanced through August 31, 2024.

Total Fees:	\$	49,575.00
Total Disbursements:	\$	815.75
Total HST:	\$	6,488.50
Total Current Invoice Due:	CAD \$	56,879.25

Please note that this account is payable on receipt. If not paid within 30 days from the invoice date, interest at the rate of prime plus 2% per annum will be charged from the invoice date.

Remittance Advice:

Invoice No: 2314744

Cheque Payments To:
DLA Piper (Canada) LLP

1133 Melville St, Suite 2700
Vancouver, BC
V6E 4E5 Canada

Please return remittance advice
with cheque.

Credit Card Payments:

<https://payments.dlapiper.ca>

Tel: 604.643.2955
Toll free: 1.833.299.9022

Please be sure to indicate invoice number on all payments

File No: 103454-00009

Amount: **CAD 56,879.25**

Canadian Dollar EFT Payments To:
DLA Piper (Canada) LLP

Bank: 010
Transit: 00010
Account Number: 2901315

Canadian Dollar Wire Payments To:
DLA Piper (Canada) LLP

Beneficiary Acc#: 000102901315
Bank: CANADIAN IMPERIAL
BANK OF COMMERCE
Canadian clearing code: //CC001000010
Swift Code: CIBCCATT
Bank Address: 400 Burrard Street
Vancouver, BC V6C 3A6

US Dollar Wire Payments To:
DLA Piper (Canada) LLP

Beneficiary Acc#: 000100368016
Bank: CANADIAN IMPERIAL
BANK OF COMMERCE
Swift Code: CIBCCATT
Bank Address: 400 Burrard Street
Vancouver, BC V6C 3A6

Intermediary Bank: Wells Fargo Bank, N.A.
New York, NY, US

Swift Code: PNBUS3NNYC
ABA#: 026005092



DLA Piper (Canada) LLP
Suite 6000, 1 First Canadian Place
PO Box 367, 100 King St W
Toronto ON M5X 1E2
www.dlapiper.com
T 416.365.3500
F 416.365.7886

KSV Restructuring Inc.
220 Bay Street
13th Floor, PO Box 20
Toronto, ON M5J 2W4 Canada

Attention: Bobby Kofman

Our File No: 103454-00009

KSV Restructuring Inc.
Re: Janik Group Thornbury Townhouse Receivership

Date: September 18, 2024
Invoice Number: 2314744

PROFESSIONAL SERVICES

For Professional Services rendered and/or disbursements advanced through August 31, 2024.

<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
08/01/24	Jonathan Born	Review of title and searches; review and comment on draft security letter; correspondence and notes; revisions and amendments; calls with B. Wu; review of Construction Act;	1.30	1,007.50
08/01/24	Lindsey Blair	Attend to corporate search matters;	0.20	70.00
08/01/24	Brendan Wu	Review title matters; internal discussions regarding title matters; draft priority letter; review search results; email correspondence internal discussions regarding priority matters;	3.00	1,275.00
08/02/24	Jonathan Born	Review and comment on security letter; correspondence;	0.80	620.00
08/02/24	Howard D. Krupat	Attending to email exchange with E. Lamek regarding Ecostar lien;	0.10	82.50
08/02/24	Brendan Wu	Revise security letter; internal discussions with J. Born regarding security letter; email correspondence;	1.90	807.50
08/02/24	Edmond Lamek	Reviewing and revising draft Security Review for Receiver; Emails with KSV regarding construction liens and providing for same;	0.80	760.00
08/03/24	Jonathan Born	Review and comment on receiver's draft report; correspondence;	0.80	620.00
08/03/24	Edmond Lamek	Revisions to Receiver's Report and related emails with KSV and J. Larry;	1.20	1,140.00



<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
08/04/24	Howard D. Krupat	Reviewing and revising draft Receiver's report pertaining to construction liens and holdback; exchanging email messages with E. Lamek regarding same;	0.50	412.50
08/04/24	Danny Nunes	Review correspondence regarding receiver's draft report;	0.20	140.00
08/04/24	Jonathan Born	Email correspondence regarding report and purchase agreement matters;	0.30	232.50
08/04/24	Edmond Lamek	Follow up emails with J. Larry regarding Foremost comments on APS and revised Report; Incorporating BK and HK comments on report and recirculating updated version;	1.40	1,330.00
08/05/24	Danny Nunes	Review draft receiver's report for sale approval motion; draft motion materials for same; correspondence with E. Lamek regarding same; correspondence with applicant's counsel regarding same; correspondence with H. Krupat regarding lien claimants;	3.40	2,380.00
08/05/24	Edmond Lamek	Reviewing and revising AVO and Ancillary Order;	0.80	760.00
08/06/24	Brendan Wu	Internal discussions with J. Born regarding security letter;	0.30	127.50
08/06/24	Edmond Lamek	5pm call with Foremost and KSV and lawyers to deal with outstanding APS and Construction lien claim holdback issues and purchase consideration structure; related emails;	0.90	855.00
08/06/24	Danny Nunes	Review correspondence from B. Kofman regarding revisions to draft motion materials; review correspondence regarding same from E. Lamek and B. Kofman; revise motion materials; correspondence with E. Lamek regarding same; correspondence with B. Kofman regarding same;	2.30	1,610.00
08/07/24	Howard D. Krupat	Exchanging email messages with E. Lamek regarding basic holdback requirements under Construction Act for written submissions in advance of hearing; attending to email exchanges with KSV and Foremost pertaining to holdback obligations; conferring with D. Nunes regarding same; reviewing various liens and certificates of action; exchanging email messages with law clerk regarding same; exchanging email messages with D. Nunes regarding same;	0.80	660.00



<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
08/07/24	Susan Li	Retrieving copy of registered Construction Lien; preparing e-mail with H. Krupat regarding same;	0.20	60.00
08/07/24	Edmond Lamek	Much of day chasing Foremost revisions to APS; many associated emails with J Larry, H. Mandel; reviewing Motion materials and emails with D. Nunes; working on draft Report updates; discussions re Construction Lien claimants;	3.90	3,705.00
08/07/24	Danny Nunes	Correspondence with E. Lamek and H. Krupat regarding construction lien holdback issue; review correspondence from E. Lamek to client regarding same; revise motion materials; correspondence with E. Lamek and H. Krupat regarding motion materials; draft fee affidavit correspondence with E. Lamek regarding same;	3.40	2,380.00
08/08/24	Tara Khatter	Adding bookmarks to motion record of the receiver per D. Nunes; email to D. Nunes re same; further bookmarks added to motion record; further correspondence with D. Nunes re same;	0.30	97.50
08/08/24	Danny Nunes	Review correspondence regarding finalizing APS; correspondence with E. Lamek regarding finalizing motion materials; revise motion materials; correspondence with E. Lamek, B. Kofman and M. Shah regarding same; compile and finalize Motion Record and serve same; correspondence with lien claimant's counsel regarding same;	4.70	3,290.00
08/08/24	Edmond Lamek	Reviewing and commenting on Foremost draft APS; revising and updating Receiver's Report; many related emails; many transaction related email exchanges; finalizing Receiver's Report with KSV; Fee Affidavit; commenting on Revised AVO; follow up emails;	4.80	4,560.00
08/09/24	Danny Nunes	Correspondence regarding service of motion record;	0.40	280.00
08/09/24	Edmond Lamek	Emails with D. Nunes and H. Krupat regarding CL Holdback Factum;	0.30	285.00
08/11/24	Howard D. Krupat	Reviewing and commenting on draft letter to Ecostar counsel regarding lien action;	0.10	82.50
08/12/24	Edmond Lamek	Finalize and send Ecostar leave letter; comment on draft C L Holdback factum;	1.10	1,045.00
08/12/24	Howard D. Krupat	Reviewing and commenting on draft factum	0.60	495.00



<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
		for holdback retention; exchanging comments with D. Nunes and E. Lamek in respect of same; summarizing issues and legal arguments pertaining to holdback requirements;		
08/12/24	Danny Nunes	Draft factum for construction lien holdback issue; correspondence with E. Lamek and H. Krupat regarding same and amend factum accordingly;	2.80	1,960.00
08/12/24	Jonathan Born	Correspondence and review of priority material;	0.20	155.00
08/13/24	Danny Nunes	Finalize construction lien holdback factum; correspondence with E. Lamek regarding same; serve factum;	0.90	630.00
08/13/24	Tara Khatter	Finalizing factum and adding hyperlinks to footnotes; correspondence with D. Nunes re same; arranging for electronic signature of E. Lamek on Factum via DocuSign;	0.40	130.00
08/13/24	Edmond Lamek	Call with lawyer for Northstar Insulation; final comments on Lien Holdback Factum, emails with D. Nunes and B. Kofman;	1.10	1,045.00
08/14/24	Danny Nunes	See to filing and uploading of factum re: construction lien holdback; review correspondence regarding APS; review correspondence regarding Slavens offer summary; correspondence with E. Lamek regarding same; correspondence to J. Conway regarding same;	1.00	700.00
08/14/24	Edmond Lamek	Prepping for tomorrows motion; emails re Appendix E, call with R. Joshi for J. Cruz; many emails re AVO revisions and CaseLines postings;	3.50	3,325.00
08/15/24	Danny Nunes	Revised draft AVO and see to posting same; correspondence with E. Lamek regarding same; correspondence with E. Lamek regarding motion;	0.60	420.00
08/15/24	Tara Khatter	Formatting approval and vesting order; correspondence with D. Nunes re same;	0.50	162.50
08/15/24	Jonathan Born	Review of order and purchase agreement; correspondence and notes;	0.40	310.00
08/15/24	Edmond Lamek	Prep for and attend Motion for Court approval of Foremost Credit Bid acquisition of 10 Louisa property, follow up emails re next steps;	1.80	1,710.00
08/19/24	Edmond Lamek	Call with J. MacLellan and J. Larry regarding	1.20	1,140.00



<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
		APS deposit refund protocol and Tarion requirements; call with J. Larry and A. Slavens (Tarion's lawyer) regarding same;		
08/20/24	Edmond Lamek	1pm Closing Call with Foremost, KSV, H. Mandel; various email exchanges with J. Born re next steps and H. Mandel drafts of paperwork;	1.20	1,140.00
08/21/24	Jonathan Born	Review of closing documents and purchase agreement; correspondence; attend to pre-closing matters; comment on draft closing documents;	0.80	620.00
08/21/24	Edmond Lamek	Discussion with B. Kofman regarding funding reduction from \$325K to \$280K; emails with B. Kofman and J. Born regarding comments on Mandel documents, reviewing same;	0.80	760.00
08/22/24	Jonathan Born	Review of signed documents and HST material; correspondence with counsel; review purchase agreement and closing documents; correspondence with E. Lamek; emails regarding closing; calls with L. Blair regarding instrument; review Teraview instrument; draft receiver's certificate; coordinate pre-closing items;	1.20	930.00
08/22/24	Edmond Lamek	Emails with B. Kofman and J. Born; reviewing draft H. Mandel documents and commenting on same; reviewing J. Born revised drafts; follow up emails; revising Receiver's Certificate and sending to J. Born and B. Kofman;	1.30	1,235.00
08/22/24	Lindsey Blair	Review PIN; review vesting order; internal discussions;	1.00	350.00
08/23/24	Jonathan Born	Coordinate closing matters; review of registrable instrument; correspondence with counsel; review of certificate; review HST registrations; correspondence and attend to closing matters;	0.70	542.50
08/23/24	Edmond Lamek	Various emails re Closing and Receiver's Certificate;	0.60	570.00
08/26/24	Edmond Lamek	Emails re KFA lien claim;	0.30	285.00
08/27/24	Edmond Lamek	Emails with KSV regarding Construction Lien Actions, stay, etc.;	0.30	285.00
Total Hours and Fees:			63.40	\$49,575.00

PROFESSIONAL SERVICES SUMMARY



<u>Professional</u>	<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
Edmond Lamek	950.00	27.30	25,935.00
Howard D. Krupat	825.00	2.10	1,732.50
Jonathan Born	775.00	6.50	5,037.50
Danny Nunes	700.00	19.70	13,790.00
Brendan Wu	425.00	5.20	2,210.00
Lindsey Blair	350.00	1.20	420.00
Tara Khatter	325.00	1.20	390.00
Susan Li	300.00	0.20	60.00
Total Fees:			\$49,575.00

DISBURSEMENT SUMMARY

Disbursements

Non-Taxable Disbursements

<u>Description</u>	<u>Amount</u>
Dye & Durham - Agent Fees	\$107.53
Filing Fees - Non Taxable	\$339.00
Non-taxable portion of the Teraview parcel register (Ontario only)	\$11.65
Non-taxable portion of the Teraview writs name search fee (Ontario only)	\$21.00
Non-Taxable Disbursements:	\$479.18

Taxable Disbursements

<u>Description</u>	<u>Amount</u>
Dye & Durham - Agent Fees	\$228.65
Taxable portion of the Teraview parcel register (Ontario only)	\$25.60
Taxable portion of the Teraview - Image Download Instrument (Ontario only)	\$9.00
Courier	\$73.32
Taxable Disbursements:	\$336.57



Matter: 103454-00009
Invoice: 2314744
Page : 7

BILL SUMMARY

	Total Fees:	\$	49,575.00
	Total Disbursements:	\$	815.75
REG # 110 152 824	Total HST:	\$	6,488.50
	Total Current Invoice Due:	CAD \$	56,879.25

This is our account.

DLA Piper (Canada) LLP

Per:

Edmond Lamek

Please note that this account is payable on receipt. If not paid within 30 days from the invoice date, interest at the rate of prime plus 2% per annum will be charged from the invoice date.



DLA Piper (Canada) LLP
Suite 6000, 1 First Canadian Place
PO Box 367, 100 King St W
Toronto ON M5X 1E2
www.dlapiper.com
T 416.365.3500
F 416.365.7886

KSV Restructuring Inc.
220 Bay Street
13th Floor, PO Box 20
Toronto, ON M5J 2W4 Canada

Attention: Bobby Kofman

October 24, 2024

INVOICE NUMBER: 2323448
FILE NUMBER: 103454-00009
BUSINESS NUMBER: REG # 110 152 824
FROM THE OFFICE OF: Edmond Lamek
DIRECT LINE: 416.365.3444

For Professional Services rendered and/or disbursements advanced through September 30, 2024.

Total Fees:	\$	2,370.00
Total HST:	\$	308.10
Total Current Invoice Due:	CAD \$	2,678.10

Please note that this account is payable on receipt. If not paid within 30 days from the invoice date, interest at the rate of prime plus 2% per annum will be charged from the invoice date.

Remittance Advice:

Invoice No: 2323448

Cheque Payments To:
DLA Piper (Canada) LLP
1133 Melville St, Suite 2700
Vancouver, BC
V6E 4E5 Canada

Please return remittance advice
with cheque.

Credit Card Payments:

<https://payments.dlapiper.ca>

Tel: 604.643.2955
Toll free: 1.833.299.9022

Please be sure to indicate invoice number on all payments

File No: 103454-00009

Amount: **CAD 2,678.10**

Canadian Dollar EFT Payments To:
DLA Piper (Canada) LLP

Bank: 010
Transit: 00010
Account Number: 2901315

Canadian Dollar Wire Payments To:
DLA Piper (Canada) LLP

Beneficiary Acc#: 000102901315
Bank: CANADIAN IMPERIAL
BANK OF COMMERCE

Canadian clearing code: //CC001000010
Swift Code: CIBCCATT
Bank Address: 400 Burrard Street
Vancouver, BC V6C 3A6

US Dollar Wire Payments To:
DLA Piper (Canada) LLP

Beneficiary Acc#: 000100368016
Bank: CANADIAN IMPERIAL
BANK OF COMMERCE
Swift Code: CIBCCATT
Bank Address: 400 Burrard Street
Vancouver, BC V6C 3A6

Intermediary Bank: Wells Fargo Bank, N.A.
New York, NY, US

Swift Code: PNBUS3NNYC
ABA#: 026005092



DLA Piper (Canada) LLP
Suite 6000, 1 First Canadian Place
PO Box 367, 100 King St W
Toronto ON M5X 1E2
www.dlapiper.com
T 416.365.3500
F 416.365.7886

KSV Restructuring Inc.
220 Bay Street
13th Floor, PO Box 20
Toronto, ON M5J 2W4 Canada

Attention: Bobby Kofman

Our File No: 103454-00009

KSV Restructuring Inc.
Re: Janik Group Thornbury Townhouse Receivership

Date: October 24, 2024
Invoice Number: 2323448

PROFESSIONAL SERVICES

For Professional Services rendered and/or disbursements advanced through September 30, 2024.

<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
09/13/24	Edmond Lamek	Emails with B. Kofman and A. Slavens re Tarion position on Purchaser agreements;	0.40	380.00
09/16/24	Edmond Lamek	Emails with B. Kofman; call with A. Slavens regarding Deposit Return Protocol;	0.50	475.00
09/19/24	Edmond Lamek	Emails re construction lien payments and Tarion request and discharge motion;	0.50	475.00
09/23/24	Howard D. Krupat	Attending to telephone discussion with M. Ruberto, counsel for Toromont; exchanging email messages with E. Lamek regarding consent sought by Toromont to proceed with lien action in order to recover holdback from bond;	0.20	165.00
09/23/24	Danny Nunes	Review correspondence regarding consent Order to release bonded lien amounts;	0.20	140.00
09/23/24	Edmond Lamek	Drafting letter to counsel to Toromont Industries (lien claimant) regarding lifting of receivership stay; call with BK re same and Tarion/Slavens;	0.70	665.00
09/30/24	Danny Nunes	Review correspondence regarding lift stay consent;	0.10	70.00
Total Hours and Fees:			2.60	\$2,370.00

PROFESSIONAL SERVICES SUMMARY



Matter: 103454-00009
Invoice: 2323448
Page : 2

<u>Professional</u>	<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
Edmond Lamek	950.00	2.10	1,995.00
Howard D. Krupat	825.00	0.20	165.00
Danny Nunes	700.00	0.30	210.00
Total Fees:			\$2,370.00

BILL SUMMARY

	Total Fees:	\$	2,370.00
REG # 110 152 824	Total HST:	\$	308.10
	Total Current Invoice Due:	CAD \$	2,678.10

This is our account.

DLA Piper (Canada) LLP

Per:

Edmond Lamek

Please note that this account is payable on receipt. If not paid within 30 days from the invoice date, interest at the rate of prime plus 2% per annum will be charged from the invoice date.



DLA Piper (Canada) LLP
 Suite 6000, 1 First Canadian Place
 PO Box 367, 100 King St W
 Toronto ON M5X 1E2
 www.dlapiper.com
 T 416.365.3500
 F 416.365.7886

KSV Restructuring Inc.
 220 Bay Street
 13th Floor, PO Box 20
 Toronto, ON M5J 2W4 Canada

November 04, 2024

Attention: Bobby Kofman

INVOICE NUMBER: 2327855
 FILE NUMBER: 103454-00009
 BUSINESS NUMBER: REG # 110 152 824
 FROM THE OFFICE OF: Edmond Lamek
 DIRECT LINE: 416.365.3444

For Professional Services rendered and/or disbursements advanced through October 31, 2024.

Total Fees:	\$	5,965.00
Total HST:	\$	775.45
Total Current Invoice Due:	CAD \$	6,740.45

Please note that this account is payable on receipt. If not paid within 30 days from the invoice date, interest at the rate of prime plus 2% per annum will be charged from the invoice date.

Remittance Advice:

Invoice No: 2327855

Cheque Payments To:
 DLA Piper (Canada) LLP
 1133 Melville St, Suite 2700
 Vancouver, BC
 V6E 4E5 Canada

Please return remittance advice with cheque.

Credit Card Payments:

<https://payments.dlapiper.ca>

Tel: 604.643.2955
 Toll free: 1.833.299.9022

Please be sure to indicate invoice number on all payments

File No: 103454-00009

Amount: **CAD 6,740.45**

Canadian Dollar EFT Payments To:
 DLA Piper (Canada) LLP

Bank: 010
 Transit: 00010
 Account Number: 2901315

Canadian Dollar Wire Payments To:
 DLA Piper (Canada) LLP

Beneficiary Acc#: 000102901315
 Bank: CANADIAN IMPERIAL BANK OF COMMERCE
 Canadian clearing code: //CC001000010
 Swift Code: CIBCCATT
 Bank Address: 400 Burrard Street
 Vancouver, BC V6C 3A6

US Dollar Wire Payments To:
 DLA Piper (Canada) LLP

Beneficiary Acc#: 000100368016
 Bank: CANADIAN IMPERIAL BANK OF COMMERCE
 Swift Code: CIBCCATT
 Bank Address: 400 Burrard Street
 Vancouver, BC V6C 3A6

Intermediary Bank: Wells Fargo Bank, N.A.
 New York, NY, US

Swift Code: PNPBUS3NYYC
 ABA#: 026005092



DLA Piper (Canada) LLP
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T 416.365.3500
F 416.365.7886

KSV Restructuring Inc.
220 Bay Street
13th Floor, PO Box 20
Toronto, ON M5J 2W4 Canada

Attention: Bobby Kofman

Our File No: 103454-00009

KSV Restructuring Inc.
Re: Janik Group Thornbury Townhouse Receivership

Date: November 04, 2024
Invoice Number: 2327855

PROFESSIONAL SERVICES

For Professional Services rendered and/or disbursements advanced through October 31, 2024.

<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
10/06/24	Danny Nunes	Review correspondence regarding lift stay;	0.20	140.00
10/07/24	Edmond Lamek	Reviewing and revising Receiver's Report on Thornbury discharge motion; emails with BK and Jeff Larry;	0.70	665.00
10/08/24	Danny Nunes	Review correspondence from E. Lamek regarding preparation of receiver's discharge motion materials;	0.20	140.00
10/08/24	Edmond Lamek	Review A Stern affidavit; email with D. Nunes re provisions of Notice of Motion/Order;	0.40	380.00
10/15/24	Danny Nunes	Review draft receiver's report; draft Notice of Motion for discharge motion; correspondence with E. Lamek regarding same;	1.00	700.00
10/15/24	Edmond Lamek	Emails with KSV and D. Nunes re Discharge Motion;	0.30	285.00
10/16/24	Danny Nunes	Correspondence with E. Lamek regarding draft Receiver's report for discharge motion;	0.20	140.00
10/18/24	Danny Nunes	Review correspondence from E. Lamek regarding Receiver's discharge motion;	0.20	140.00
10/21/24	Danny Nunes	Correspondence to court staff regarding scheduling Receiver's discharge motion; correspondence with E. Lamek regarding same;	0.30	210.00
10/23/24	Danny Nunes	Correspondence with court staff regarding scheduling Receiver's discharge motion; correspondence with E. Lamek regarding	0.40	280.00



<u>Date</u>	<u>Professional</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
		same;		
10/24/24	Edmond Lamek	Emails with B. Kofman re court time availability;	0.30	285.00
10/25/24	Danny Nunes	Correspondence with court staff regarding scheduling Receiver's discharge motion; correspondence with E. Lamek regarding same; correspondence with client and E. Lamek regarding same and preparation of motion materials; prepare same;	1.00	700.00
10/25/24	Edmond Lamek	Email exchanges with D. Nunes re court timing, service, comments on NoM;	0.60	570.00
10/28/24	Danny Nunes	Draft motion materials for receiver's discharge motion;	0.40	280.00
10/28/24	Danny Nunes	Correspondence to Court staff regarding confirmation of motion date; correspondence with E. Lamek and B. Kofman regarding same;	0.30	210.00
10/29/24	Danny Nunes	Correspondence with Court staff regarding scheduling discharge motion; correspondence with E. Lamek and B. Kofman regarding same; finalize Receiver's discharge motion materials;	0.80	560.00
10/30/24	Danny Nunes	Work on Receiver's discharge motion materials;	0.40	280.00
Total Hours and Fees:			7.70	\$5,965.00

PROFESSIONAL SERVICES SUMMARY

<u>Professional</u>	<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
Edmond Lamek	950.00	2.30	2,185.00
Danny Nunes	700.00	5.40	3,780.00
Total Fees:			\$5,965.00

BILL SUMMARY

REG # 110 152 824	Total Fees:	\$	5,965.00
	Total HST:	\$	775.45
	Total Current Invoice Due:	CAD \$	6,740.45



Matter: 103454-00009
Invoice: 2327855
Page : 3

This is our account.

DLA Piper (Canada) LLP

Per:

A handwritten signature in black ink, appearing to read 'Edmond Lamek', written over a horizontal line.

Edmond Lamek

Please note that this account is payable on receipt. If not paid within 30 days from the invoice date, interest at the rate of prime plus 2% per annum will be charged from the invoice date.

FOREMOST MORTGAGE HOLDING CORPORATION
Applicant

and
2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

FEE AFFIDAVIT OF EDMOND LAMEK
(sworn November 5, 2024)

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond Lamek (LSO No. 33338U)
Tel.: (416) 365-4444
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver

TAB 3

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

THE HONOURABLE) THURSDAY THE 28TH DAY
)
JUSTICE BLACK) OF NOVEMBER, 2024

BETWEEN:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

- and -

2521311 ONTARIO INC. o.a. TOWNS OF THORNBURY

Respondent

DISCHARGE ORDER

THIS MOTION, made by KSV Restructuring Inc. (“**KSV**”), in its capacity as receiver (in such capacity, the “**Receiver**”) of the property, assets and undertakings (collectively, the “**Property**”) of 2521311 Ontario Inc. o.a. Towns of Thornbury (“**Debtor**”), for an order, *inter alia*: (i) authorizing the Receiver, on behalf of the Debtor, to terminate and disclaim all agreements of purchase and sale (the “**APSs**”) entered into between the Debtor and the purchasers of townhome units in the Towns of Thornbury development (the “**Purchasers**”); (ii) approving the activities of the Receiver as set out in the Second Report dated November 14, 2024 (the “**Second Report**”) and approving the fees and disbursements of the Receiver and its legal counsel, DLA Piper (Canada) LLP (“**DLA**”), including the estimated fee accrual for completion of the receivership proceedings (the “**Fee Accrual**”); (iii) discharging KSV as Receiver upon the filing of the discharge certificate attached as Schedule “A” hereto (the “**Discharge Certificate**”) certifying that all outstanding matters in the receivership proceeding have been completed; and

(iv) releasing KSV from any and all liability as set out in paragraph 7 of this Order, was heard this day via video conference.

ON READING the Second Report and all appendices thereto, including the affidavits of Robert Kofman sworn November 6, 2024 and Edmond Lamek sworn November 5, 2024 as to the fees of the Receiver and DLA, respectively (together, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver and such other parties as listed on the counsel slip, no one else appearing although served as evidenced by the affidavit of Danny Nunes sworn November 15, 2024, filed;

SERVICE

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

TERMINATION OF APSs

2. **THIS COURT ORDERS** that the Receiver is hereby authorized, on behalf of the Debtor, to terminate and disclaim all APSs between the Debtor and the Purchasers.

APPROVAL OF ACTIVITIES AND FEES

3. **THIS COURT ORDERS** that the Second Report and the activities of the Receiver set out therein, are hereby approved, provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and DLA, as set out in the Second Report and the Fee Affidavits, are hereby approved.

5. **THIS COURT ORDERS** that the Fee Accrual set out in the Second Report to cover the fees and disbursements of the Receiver and DLA incurred or to be incurred until the filing of the Discharge Certificate, as set out in the Second Report, is hereby approved.

RECEIVER'S DISCHARGE

6. **THIS COURT ORDERS** that upon the Receiver filing the Discharge Certificate, the Receiver shall be discharged as Receiver of the Debtor's Property, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of any incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KSV, in its capacity as Receiver.

7. **THIS COURT ORDERS AND DECLARES** that KSV is hereby released and discharged from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, KSV is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

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

SCHEDULE "A"

FORM OF RECEIVER'S DISCHARGE CERTIFICATE

Court File No.: CV-23-00710990-00CL

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

BETWEEN:

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

- and -

2521311 ONTARIO INC. o.a. TOWNS OF THORNBURY

Respondent

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

I. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated February 5, 2024, KSV Restructuring Inc. was appointed as the receiver (in such capacity, the "**Receiver**"), without security, of the property, assets and undertakings of 2521311 Ontario inc. o.a. Towns of Thornbury.

II. Pursuant to an Order of the Court dated November 28, 2024, the Court approved the discharge of the Receiver to become effective upon the filing by the Receiver of a certificate certifying that all outstanding matters in respect of the receivership proceeding have been completed.

THE RECEIVER CERTIFIES the following:

1. All outstanding matters in respect of the receivership proceeding, including but not limited to those set out in the Second Report of the Receiver dated November 14, 2024, have been completed; and

2. This Certificate was filed by the Receiver at _____ [TIME] on _____
[DATE].

KSV Restructuring Inc. in its capacity as
Court-appointed Receiver of 2521311
Ontario Inc. o.a. Towns of Thornbury, and
not in its personal or corporate capacity

Name:

Title:

FOREMOST MORTGAGE HOLDING CORPORATION
Applicant

and

2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

RECEIVER'S DISCHARGE ORDER

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond Lamek (LSO No. 33338U)
Tel.: (416) 365-4444
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver

FOREMOST MORTGAGE HOLDING CORPORATION
Applicant

and
2521311 ONTARIO INC. O.A. TOWNS OF THORNBURY
Respondent

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

PROCEEDINGS COMMENCED AT TORONTO

MOTION RECORD

(returnable November 28, 2024)

DLA PIPER (CANADA) LLP
1 First Canadian Place, Suite 6000
100 King Street West
Toronto, ON M5X 1E2

Edmond Lamek (LSO No. 33338U)
Tel.: (416) 365-4444
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver