

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

THE HONOURABLE MR.

)

MONDAY, THE 22<sup>ND</sup>

JUSTICE CAVANAGH

)

DAY OF JULY, 2024

)

B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**2557386 ONTARIO INC. and 2363823 ONTARIO INC. o/a MARIMAN HOMES**

Respondents

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

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of 2557386 Ontario Inc. and 2363823 Ontario Inc. o/a Mariman Homes (collectively, the “**Debtors**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and Arshed Omer Bhatti and Aimen Iqbal (the “**Purchaser**”) dated June 7, 2024 and appended to the Second Report of the Receiver dated July 16, 2024 (the “**Second Report**”), and vesting in the Purchaser the Debtors’ right, title and interest in and to the Real Property (as defined in the Sale Agreement) (the “**Real Property**”), was heard this day at 330 University Avenue in Toronto, Ontario.

**ON READING** the Second Report and on hearing the submissions of counsel for the Receiver, and those other parties that were present as 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 service, filed:

## **SERVICE AND DEFINITIONS**

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

2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the Sale Agreement or the Second Report, as applicable.

## **APPROVAL AND VESTING**

3. **THIS COURT ORDERS** 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 Real Property (including the lands and premises described in Schedule “A” hereto) to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “B” hereto (the “**Receiver’s Certificate**”), all of the Debtors’ right, title and interest in and to the Real Property described in the Sale Agreement 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 Osborne dated January 16, 2024; (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; (iii) all mortgages, pledges, charges, liens, debentures, trust deeds, assignments by way of security, security interests, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in, the Real Property or any part thereof or interest therein, and any agreements, options, easements, rights of way, restrictions, executions or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Real Property or any part thereof or interest therein, including but not limited to any of the foregoing which are registered on title to the Real Property following the date referred to in Schedule “B” hereto but prior to the registration in the Land Registry Office for the Land Title Division of Halton (No. 20) of an Application for Vesting Order to which this Order is attached; (iv) any relevant writs of executions that may have been filed with the sheriff as against the Debtors of the Real Property, either before or after the date of this Order; and (v) those Encumbrances listed on Schedule “C” hereto (all of which are, collectively with those items set out in Section 4(i), (ii), (iii), and (iv) above, referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “D” hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Halton (No. 20) 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: (a) enter the Purchaser as the owner of the Real Property in fee simple; (b) delete and expunge from title to the Real Property all of the Encumbrances listed in Schedule “C” hereto; and (c) register this Order on title to the Real Property.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

the vesting of the Real Property in the Purchaser pursuant to this Order and the assignments pursuant to this Order and the other terms and provisions of this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, 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.

#### **GENERAL**

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.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date hereof and is enforceable without further need for entry or filing.

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## **Schedule “A” – Real Property**

**PIN: 24852-0035 (LT)**

Legal Description: LT 60, PL 852 ; S/T 78149 OAKVILLE

Municipal Address: 2051 Vickery Drive, Oakville, Ontario L6L 2J2

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

Court File No. CV-23-00699432-00CL

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

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

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**2557386 ONTARIO INC. and 2363823 ONTARIO INC. o/a MARIMAN HOMES**

Respondents

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

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Osborne of the Ontario Superior Court of Justice (the “**Court**”) dated January 16, 2024, KSV Restructuring Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of 2557386 Ontario Inc. and 2363823 Ontario Inc. o/a Mariman Homes (collectively, the “**Debtors**”).

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [MONTH] [DAY], 2024 (the “**Sale Agreement**”) between the Receiver and Arshed Omer Bhatti and Aimen Iqbal (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtors’ right, title and interest in and to the Real Property, which vesting is to be effective with respect to the Real Property 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 Real Property; (ii) that the conditions to Closing as set out in the Sale Agreement have

been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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 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].

**KSV Restructuring Inc., in its capacity as  
Receiver of the undertaking, property and  
assets of 2557386 Ontario Inc. and 2363823  
Ontario Inc. o/a Mariman Homes, and not in  
its personal capacity**

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



## **Schedule “C” – Encumbrances to be Deleted and Expunged from Title to the Real Property**

### *Instruments on Title*

1. Instrument No. HR1637851, registered July 24, 2019, being a Charge/Mortgage of Land in the amount of \$3,400,000 from 2363823 Ontario Inc. in favour of Morris Wright Mortgage Company Ltd.; and
2. Instrument No. HR2011985, registered January 19, 2024, being an Application for Court Order from the Ontario Superior Court of Justice (Commercial List) to KSV Restructuring Inc.

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

**(Unaffected by the Vesting Order)**

1. Any reservations, restrictions, rights of way, easements or covenants that run with the land;
2. Any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
3. All laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Real Property;
4. Any minor easements for the supply of utility services or other services to the Lands or Buildings, if any, or adjacent properties;
5. Encroachments disclosed by any error or omission in existing surveys of the Real Property or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Real Property and survey of the Real Property and survey matters generally;
6. The exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
7. Any reservation(s) contained in the original grant from Crown;
8. Subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14;
9. Provincial succession duties and escheats or forfeiture to the Crown;
10. The rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Real Property or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
11. Any lease to which subsection 70(2) of the *Registry Act* (Ontario) applies;
12. Instrument No. 78149, registered on May 1, 1958, being a Transfer of an Easement to the Bell Telephone Company of Canada; and
13. Instrument No. HR1414901, registered on December 1, 2016, being a Transfer/Deed of Land from Robert Bantock to 2363823 Ontario Inc.

**MARSHALLZEHR GROUP INC.**

Applicant

**2557386 ONTARIO INC., et al.**

Respondents

Court File No. CV-23-00699432-00CL

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

Proceedings commenced at TORONTO

**APPROVAL AND VESTING ORDER**

**CHAITONS LLP**

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Lawyers for KSV Restructuring Inc.,  
Court-appointed Receiver