

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

B E T W E E N:

MCAP FINANCIAL CORPORATION

Applicant

and

VANDYK-BACKYARD KINGS MILL LIMITED

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C., 1985, C. B-3, AS AMENDED; SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O 1990, C.C.43, AS AMENDED; AND SECTION 68 OF THE CONSTRUCTION ACT, R.S.O. 1990, c. C.30

APPLICATION RECORD

November 24, 2023

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TO: **THE SERVICE LIST**

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Electronically issued / Délivré par voie électronique : 24-Nov-2023
 Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : CV-23-00710267-00CL



Court File No. CV-23-

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NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- In writing
 In person
 By telephone conference
 By video conference

at the following location:

- Video conference details to be established.

Electronically issued / Délivré par voie électronique : 24-Nov-2023
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Court File No./N° du dossier du greffe : CV-23-00710267-00CL

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on: a day to be set by the register of the Commercial List.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date _____ Issued by _____
 Local Registrar

Address of Superior Court of Justice
 court office: 330 University Avenue, 8th Floor
 Toronto ON M5G 1R7

TO: THE SERVICE LIST

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APPLICATION

1. The Applicant, MCAP Financial Corporation (“**MCAP**”), makes an Application for:
 - (a) if necessary, an Order abridging the time for service of the Notice of Application and dispensing with service on any person other than those served;
 - (b) an Order appointing a receiver and manager pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the “**CJA**”) without security, and Construction Lien Trustee, pursuant to section 68 of the *Construction Act*, R.S.O. 1990, c. C.30 (the “**Construction Act**”) (in such capacity, the “**Construction Receiver**”), without security, over all property, assets and undertakings (the “**Property**”) of Vandyk-Backyard Kings Mill Limited (“**Vandyk-Kings Mill**” or the “**Debtor**”) acquired for or used in relation to the Debtor’s business and the Project (as defined below); and
 - (c) such further and other relief as to this Honourable Court may seem just.
2. Capitalized terms used herein and not otherwise defined have the meaning given to them in the Misener Affidavit;

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3. The grounds for the application are:
- (a) MCAP is an independent mortgage finance company specializing in residential, commercial and development mortgage financing;
 - (b) MCAP is the senior secured creditor over the Real Property (as defined below) of the Debtor;
 - (c) The Debtor, Vandyk-Kings Mill, is a privately owned company, incorporated pursuant to the laws of Ontario, for the purpose of owning and developing the Project (as defined below); and
 - (d) MCAP provided construction financing to the Debtor for the purpose of constructing a residential real estate development consisting of a two-tower, 234-unit residential condominium building with a 3-storey underground parkade (the "**Project**") at the municipal address 15 Neighbourhood Lane, Etobicoke, Ontario (collectively with the Project, the "**Real Property**");

MCAP Credit Agreement and Security

- (e) MCAP provided a Construction Loan and a Commitment Letter, as amended, supplemented or modified from time to time (the "**Commitment Letter**");
- (f) The maturity date of the Commitment Letter was August 1, 2023;

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- (g) As of November 22, 2023, the Debtor was indebted to MCAP in the amount of \$37,952,101.38, excluding professional fees, disbursements and HST (the “**Indebtedness**”);
- (h) MCAP has valid and enforceable security securing all obligations owing under the Commitment Letter, including the MCAP Mortgage, an Assignment of Rents, a GSA, and a perfected personal property security registration over all present and after-acquired personal property of the Debtor under the PPSA;

Other Secured Creditors

- (i) Westmount Guarantee Services Inc. (“**Westmount**”) claims security over Vandyk-Kings Mill’s property in relation to certain credit support it has provided in relation to;
 - (i) the Debtor’s registrations with Tarion Warranty Corporation (“**Tarion**”) for statutory deposit and warranty coverage required under the *Ontario New Home Warranties Plan Act*; and
 - (ii) excess deposit insurance provided by Westmount to the Debtor for deposits above and beyond the limits insured by Tarion;
- (j) Westmount has postponed its interest in the mortgage security to MCAP but retains a first charge on purchaser deposits;

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Lien Claimants

- (k) Since August 25, 2023, a number of entities have registered construction liens or made claims for liens in the total aggregate amount of \$16,292,610 against the Real Property in respect of labour and materials allegedly supplied as improvements in relation to the Project (the **“Construction Liens”**);
- (l) The Construction Liens continue to be registered on title;

Debtor’s Defaults and Demand

- (m) The Debtor has defaulted under the Commitment Letter and related security by, among other things, permitting the Construction Liens to be registered on title, failing to pay property taxes, diverting funds intended for the Project, and failing to repay the Indebtedness by the maturity date;
- (n) On October 4, 2023, MCAP made written demand for repayment of the Indebtedness and provided the Debtor with notice of its intention to enforce its security pursuant to section 244 of the BIA (the **“Demand Letter and NITES”**);
- (o) The statutory notice period provided for under the BIA and outlined in the NITES has expired;
- (p) Following service of the Demand Letter and NITES, the Debtor permitted additional construction liens to be registered on title;

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- (q) The Debtor is unable to pay the Indebtedness;
 - (r) Construction is at a standstill given the current financial difficulties of the Debtor and MCAP cannot fund in the face of the Construction Liens. Accordingly, the appointment of the proposed Receiver is necessary to preserve the property and assets of the Debtor and proceed with an orderly realization for the benefit of stakeholders;
 - (s) It is just and convenient to appoint a Receiver over the property, assets and undertakings of the Debtor in the circumstances; and
 - (t) Such further and other grounds as the lawyers may advise.
4. The following documentary evidence will be used at the hearing of the application:
- (a) The affidavit of Michael Misener, to be affirmed; and
 - (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

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November 23, 2023

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MCAP Financial Corporation
Applicant

-and- Vandyk-Backyard Kings Mill Limited
Respondent

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF APPLICATION

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File Number: T1033772

Court File No. CV-23-00710267-00CL

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AFFIDAVIT

I, Michael Misener, of the City of Burlington, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Senior Director at MCAP Financial Corporation (“**MCAP**”), the Applicant in this proceeding, and as such, I have knowledge of the matters contained in this affidavit except where I refer to matters based on information and belief, in which case I state the source of that information or belief and believe it to be true.

2. I make this affidavit in support of MCAP’s application for an order (the “**Appointment Order**”), among other things, appointing KSV Restructuring Inc. (“**KSV**”) as receiver and manager pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990,

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c. C.43 (the “**CJA**”) (in such capacity, the “**Receiver**”) without security, and Construction Lien Trustee, pursuant to section 68 of the *Construction Act*, R.S.O. 1990, c. C.30 (the “**Construction Act**”) (in such capacity, the “**Construction Lien Trustee**”, and collectively with the Receiver, the “**Construction Receiver**”), without security, over all property, assets and undertakings (the “**Property**”) of Vandyk-Backyard Kings Mill Limited (“**Vandyk-Kings Mill**” or the “**Debtor**”) acquired for or used in relation to the Debtor’s business and the Project (as defined below).

I. THE PARTIES

3. MCAP is an independent mortgage finance company specializing in residential, commercial and development mortgage financing. As further described herein, MCAP provided construction financing, as agent for itself and other lenders, to Vandyk-Kings Mill for the purpose of constructing a residential real estate development consisting of a two-tower, 234-unit residential condominium building with a 3-storey underground parkade (the “**Project**”) at the municipal address 15 Neighbourhood Lane, Etobicoke, Ontario (collectively with the Project, the “**Real Property**”). Attached as **Exhibit “A”** is a true copy of the parcel register for the Real Property dated November 22, 2023.

4. The Debtor, Vandyk-Kings Mill, is a privately owned company, incorporated pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 (the “**OBCA**”) for the purpose of owning and developing the Project. Attached as **Exhibit “B”** is a true copy of the Corporate Profile Report of Vandyk-Kings Mill, obtained from the provincial ministry with a file currency date of November 22, 2023.

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5. Vandyk-Backyard Humberside Limited (“**Vandyk Humberside**”) and Vandyk Holdings Incorporated (together, the “**Corporate Guarantors**”) and John C. Vandyk (the “**Personal Guarantor**”, collectively with the Corporate Guarantors, the “**Guarantors**”) provided guarantees in respect of the Project. John Vandyk is the president and secretary of Vandyk-Kings Mill.

II. THE MCAP CREDIT FACILITY

6. Vandyk-Kings Mill, as borrower, Vandyk Humberside and John Vandyk, as guarantors, and MCAP, as lender, entered into a Commitment Letter dated April 28, 2020, accepted on June 8, 2020, for purpose of financing the construction costs for the Project with a maximum principal amount of \$79,555,000 (the “**Construction Loan**”) and a letter of credit of \$4,000,000 (the “**Initial Commitment Letter**”). Attached as **Exhibit “C”** is a copy of the Initial Commitment Letter.

7. There have been four amendments to the Initial Commitment Letter (which, together with the Initial Commitment Letter, form the “**Commitment Letter**”).

8. Vandyk-Kings Mill, the Guarantors, and MCAP entered into an amendment of the Commitment Letter dated August 18, 2020, accepted on August 20, 2020 (“**Amendment No. 1**”), to clarify that the Commitment Letter was subject to syndication. Attached as **Exhibit “D”** is a copy of Amendment No. 1.

9. Vandyk-Kings Mill, the Guarantors, and MCAP entered into a further amendment of the Commitment Letter dated December 13, 2022, accepted on December 14, 2022 (“**Amendment No. 2**”), which increased the approved Construction Loan by \$4,056,141,

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required an additional cash equity infusion of \$1,306,182 by the Debtor and additional deferred costs of \$1,161,064 via a deferral of the construction management fee in order to assist with cost increases. The amendment required an increase to the personal guarantee of John Vandyk to \$43,000,000. Attached as **Exhibit "E"** is a copy of Amendment No. 2.

10. Vandyk-Kings Mill, the Guarantors, and MCAP entered into a further amendment of the Commitment Letter dated June 19, 2023, accepted on June 26, 2023 ("**Amendment No. 3**"), which, upon the satisfaction of certain conditions precedent, including an additional \$335,277 cash equity injection by the Debtor to partially pay the renewal fee that was due on execution of the amendment and payable by August 1, 2023, would extend the loan for 15 months from August 1, 2023 to November 1, 2024 with two potential 3-month extension periods to facilitate completion of the Project; amend the Project budget to account for the balance of the renewal fee; and, increase the floor interest rate. Attached as **Exhibit "F"** is a copy of Amendment No. 3.

11. The additional equity injection condition precedent required under Amendment No. 3 was not satisfied by the payable date of August 1, 2023 and, as a result, the loan matured on August 1, 2023 (the "**Maturity Date**").

12. Vandyk-Kings Mill, the Guarantors, and MCAP entered into a further amendment of the Commitment Letter dated September 12, 2023 ("**Amendment No. 4**"), which, among other things:

- (a) provided for the appointment of BDO as Financial Advisor to MCAP;

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- (b) required Vandyk-Kings Mill to provide a binding commitment letter from Windsor Private Capital (“**WPC**”) on or before September 29, 2023 for mezzanine financing to Vandyk-Kings Mill in the amount of no less than \$7,000,000, subordinated to the funds advanced by MCAP under the Commitment Letter, in a form satisfactory to MCAP in its sole discretion, and which was capable of being successfully funded on or before October 16, 2023; and
- (c) required Vandyk-Kings Mill provide an acknowledgement and direction to WPC directing the net proceeds of the mezzanine financing to MCAP.

Attached as **Exhibit “G”** is a copy of Amendment No. 4.

13. Under Amendment No. 4, if the amended terms were fully complied with, then the Maturity Date was to be extended from August 1, 2023 to November 1, 2024. However, Vandyk-Kings Mill failed to provide a binding commitment letter from WPC on or before September 29, 2023 and so the Maturity Date remains August 1, 2023.

III. **THE SECURITY, GUARANTEES AND INDEMNITIES**

(a) **Security**

14. MCAP holds security interests in all of the property, assets and undertakings of the Debtor, including the Real Property. Among others, MCAP has entered into the following security agreements with the Debtor:

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- (a) a Charge/Mortgage against the Real Property in the principal amount of \$104,500,000.00 granted by Vandyk-Kings Mill in favour of MCAP and registered on November 26, 2020 under Instrument No. AT5581120 (the “**MCAP Mortgage**”), which Charge is subject to MCAP’s standard charge terms. Attached as **Exhibit “H”** is a copy of the MCAP Mortgage and the Acknowledgement of Standard Charge Terms;
- (b) an Assignment of Rents and Leases dated July 7, 2020 was granted by Vandyk-Kings Mill in favour of MCAP and registered on November 26, 2020 under Instrument No. AT5581121 (the “**Assignment of Rents**”). Attached as **Exhibit “I”** is a copy of the Assignment of Rents; and
- (c) a General Security Agreement executed by Vandyk-Kings Mill in favour of MCAP creating a first ranking security interest in all present and after-acquired personal property of Vandyk-Kings Mill (the “**GSA**”). Attached as **Exhibit “J”** is a copy of the GSA.

15. The personal property security was perfected on June 25, 2020 by registration against the Debtor as related to the applicable personal property of Vandyk-Kings Mill in the provincial registry maintained under the *Personal Property Security Act* (Ontario), R.S.O. 1990, c P.10 (the “**PPSA**”). Attached as **Exhibit “K”** is a copy of the Ontario PPSA search against Vandyk-Kings Mill, with a file currency date of October 16, 2023.

16. Vandyk Holdings Incorporated also provided a Share Pledge Agreement in favour of MCAP in respect of all issued and outstanding shares of the Debtor, which are held by

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Vandyk Holdings Incorporated (the "**Share Pledge**"). Attached as **Exhibit "L"** is a copy of the Share Pledge.

(b) Guarantees and Indemnities

17. The Guarantors each provided guarantees to MCAP dated July 7, 2020 in respect of the Indebtedness (as defined below) as follows:

- (a) a guarantee and postponement of claim from John Vandyk in the amount of \$40,000,000.00 plus interest and expenses, in favour of MCAP in respect of all indebtedness, liabilities and obligations of the Debtor, which was subsequently increased to \$43,000,000 pursuant to Amendment No. 2 (the "**Personal Guarantee**"). Attached as **Exhibit "M"** is a copy of the Personal Guarantee for \$43,000,000 dated January 10, 2023;
- (b) a guarantee and postponement of claim from Vandyk Humberside in favour of MCAP in respect of all indebtedness, liabilities and obligations of the Debtor (the "**Corporate Guarantee**"). Attached as **Exhibit "N"** is a copy of the Corporate Guarantee; and
- (c) a limited recourse guarantee and postponement of claim executed by Vandyk Holdings Incorporated in favour of MCAP in respect of all indebtedness, liabilities and obligations of the Debtor to the extent of the Share Pledge Agreement (the "**Limited Recourse Guarantee**", and together with the Personal Guarantee and Corporate Guarantee, the

-8-

“Guarantees”). Attached as **Exhibit “O”** is a copy of the Limited Recourse Guarantee.

18. Finally Vandyk-Kings Mill executed an indemnity agreement in favour of MCAP in respect of any letters of credit issued pursuant to the Commitment Letter dated July 7, 2020 (the **“Indemnity Agreement”**). Attached as **Exhibit “P”** is a copy of the Indemnity Agreement.

IV. OTHER SECURED CREDITORS

19. In addition to MCAP’s secured claims, Westmount Guarantee Services Inc. (**“Westmount”**) claims security over Vandyk-Kings Mill’s property.
20. Pursuant to the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31 (the **“ONHWPA”**), Tarion Warranty Corporation (**“Tarion”**) provides new home buyers with certain statutory deposit and warranty coverage, as set out in the ONHWPA.
21. Westmount has provided certain credit support to Vandyk-Kings Mill in relation to their registrations with Tarion. Westmount has also provided excess deposit insurance for deposits above and beyond the limits insured by Tarion. Westmount registered a charge against the Real Property in respect of the Tarion and excess deposit insurance coverage on March 4, 2020 under Instrument No. AT5380929 (the **“Westmount Charge”**). Westmount entered into a Postponement Agreement with MCAP dated July 9, 2020, subordinating Westmount’s interest under the Westmount Charge to MCAP’s interest under the MCAP Mortgage, registered on November 26, 2020 under Instrument

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No. AT5581126 (the “**Westmount Postponement**”). Attached as **Exhibit “Q”** are copies of the Westmount Charge and Westmount Postponement registrations.

22. Westmount maintains a first charge on purchaser deposits via a personal property security registration that was perfected on October 22, 2019 under Registration No. 20191022 0840 1862 0342, attached at Exhibit “K”.

IV. LIEN CLAIMANTS

23. Based on a subsearch conducted of the Real Property, as at November 22, 2023, a number of entities have registered construction liens or made claims for liens in the total aggregate amount of \$16,292,610 against the Real Property in respect of labour and materials allegedly supplied as improvements in relation to the Project. The entities with lien registrations and claims include (each a “**Construction Lien**”, collectively the “**Construction Liens**”):

Entity	Date Registered	Instrument No.	Amount
Dircam Electric Limited	25/08/2023	AT6407063	\$743,323
Dircam Electric Limited	29/08/2023	AT6408162	\$103,508
Kohn Partnership Architects Inc.	20/09/2023	AT6423816	\$61,359
Plycon Forming Ltd.	20/09/2023	AT6424435	\$9,899,781
Viola Ready Mix Inc.	22/09/2023	AT6426188	\$558,195
Myer Salit Limited	26/09/2023	AT6427885	\$500,488
Automated Fire Protection Systems Inc.	12/10/2023	AT6439372	\$240,354
Dolvin Mechanical Contractors Limited	13/10/2023	AT6440475	\$2,251,028
Stephenson’s Rental Services Inc.	23/10/2023	AT6445158	\$42,222

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Read Jones Christoffersen Ltd.	24/10/2023	AT6445871	\$6,215
Lido Wall Systems Inc.	08/11/2023	AT6456380	\$849,376
Venice Construction Inc.	09/11/2023	AT6457030	\$260,581
Classic Tile Contractors Limited	09/11/2023	AT6457231	\$359,360
Summit Concrete & Drain Ltd.	10/11/2023	AT6457806	\$61,302
2164705 Ontario Inc.	15/11/2023	AT6459778	\$18,552
Primeline Windows & Doors Inc.	16/11/2023	AT6461236	\$336,966
Total			\$16,292,610

24. I understand that notice of this Application will be given to each of the above lien claimants who have registered a Construction Lien in respect of the Project.

V. FINANCIAL DIFFICULTIES OF VANDYK-KINGS MILL

(a) Financial Difficulties and Appointment of BDO as Financial Advisor

25. The last advance for construction purposes under the Commitment Letter was made on June 21, 2023. As is standard in the construction industry, in order to advance funds, MCAP requires:

- (a) all advances were funded on a cost-to-completion basis and includes:
 - (i) details of costs-to-date in reference to the overall Project budget;
 - (ii) a satisfactory inspection certificate from the cost consultant to support the draw request indicating: (i) the cost of work in place, (ii) that work to date is in accordance with the plans and specifications previously submitted to MCAP, (iii) interest, the amount of

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holdbacks and cost to complete; and (iv) an estimated completion date; and

(iii) a report from MCAP's legal counsel showing clear title; and

(b) that MCAP be satisfied there is sufficient funding from all sources to pay for the completion of construction of the Project.

26. Vandyk-Kings Mill is currently unable to meet the requirements for a funding advance.

27. I am advised by Ryan Topple, Senior Director, and believe it to be true that, on July 27, 2023, MCAP attended a meeting with Francesco Margani, principal broker of franc&co. Mr. Margani advised that he was representing Mr. Vandyk in his efforts to obtain additional/alternative financing for several construction projects, and had obtained a non-binding letter of intent from WPC to provide a \$7,000,000 loan to Vandyk-Kings Mill from WPC for general liquidity purposes, which he anticipated would generate net proceeds of approximately \$5,880,000. As of the date of this affidavit, WPC has not provided a binding commitment letter for mezzanine financing.

28. I am further advised by Susan Feldman, Senior Vice President, and believe it to be true, that, as part of these discussions with Mr. Margani, MCAP became aware in or around August, 2023, that Vandyk-Kings Mill had diverted approximately \$6.2 million in funds that had previously been advanced to cover payables on the Project to other Vandyk assets.

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29. Starting on August 25, 2023, the Construction Liens were registered on the Real Property.

30. As part of Amendment No. 4, MCAP appointed BDO as Financial Advisor to assist with, among other things, (a) determination of the actual amount of funds that the Debtor had diverted from the Project, and (b) the review and confirmation of the costs-to-date and costs-to-complete, contingency reserve and cash flow projections. MCAP retained BDO as Financial Advisor on September 15, 2023. Attached as **Exhibit "R"** is a copy of the BDO Engagement Letter dated September 15, 2023.

31. On October 12, 2023, Empire Communities Corp. ("**ECC**") provided a non-binding expression of interest for the purchase of certain assets of Vandyk Properties Inc., including the Real Property (the "**ECC EOI**"). The ECC EOI recommended a thirty (30) day due diligence period, after which ECC was entitled to enter into a binding agreement. The ECC EOI did not include any potential pricing or deal structure, it was solely to provide ECC with access to information on a 30 day exclusive basis. Attached as **Exhibit "S"** is a copy of the ECC EOI.

32. On November 14, 2023, the Financial Advisor issued their final report (the "**BDO Report**"). Among other things, they confirmed that a total of \$11,000,000 in funds advanced by MCAP (\$9,550,000) and Westmount (\$1,450,000) had been diverted by the Debtor for use elsewhere. Attached as **Exhibit "T"** is a copy of the BDO Report.

33. The Project is currently constructed to the point that the external structure of the building is topped off, the exterior wall system is partially installed, and preliminary

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mechanical and electrical work has been completed for the podium and building to the 7th floor.

34. Construction is at a standstill given the current financial difficulties of the Debtor. The trades will not continue work until a solution is in place to continue financing the Project.

35. On November 20, 2023, Gowling WLG (Canada) LLP ("**Gowlings**"), on behalf of MCAP, requested information from the Debtor about what steps have been taken or will be taken to winterize and secure the Project and confirmation that the Debtor would take all necessary steps to ensure the Real Property is being maintained. Attached as **Exhibit "U"** is a copy of Gowlings' November 20, 2023 letter.

(b) Defaults under the Commitment Letter

36. In the past two months, numerous events of default under the Commitment Letter have occurred. These defaults are existing and continuing (the "**Existing Defaults**"), including but not limited to the defaults described below.

(i) The Construction Defaults

37. As set out above, since August 25, 2023, Vandyk-Kings Mill has permitted the Construction Liens to be registered on title, which is an event of default under the Standard Charge Terms.

38. The Construction Liens continue to be registered on title.

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(ii) *The Financial Defaults*

39. A number of financial defaults have occurred and continue under the Commitment Letter and related security documents:

- (a) Under Amendment No. 3, Vandyk-Kings Mill was required to make a further cash equity infusion of \$335,277 by August 1, 2023 to partially cover the renewal fee associated with amendment. Vandyk-Kings Mill failed to provide the required cash equity required under Amendment No. 3 (the “**Equity Infusion Default**”);
- (b) Vandyk-Kings Mill failed to pay property taxes for the months of July, August, and September, 2023 (the “**Property Tax Default**”);
- (c) Under Amendment No. 4, on or before September 29, 2023, Vandyk-Kings Mill was to provide a binding Commitment Letter from WPC for subordinated mezzanine financing of no less than \$7,000,000 that was capable of being successfully funded on or before October 16, 2023. Vandyk-Kings Mill failed to enter into a binding Commitment Letter with WPC on or before September 29, 2023 (the “**Refinancing Default**”);
- (d) Vandyk-Kings Mill failed to use funds advanced under the Commitment Letter for the Project, instead diverting funds to other Vandyk assets (the “**Diversion of Funds Default**”); and
- (e) Vandyk-Kings Mill failed to repay the loan upon reaching the Maturity Date (the “**Repayment Default**”).

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(c) Demand and Notice of Intention to Enforce

40. On October 4, 2023, Gowlings, on behalf of MCAP, issued a demand letter to the Debtor and Guarantors (the "**Demand Letter**"), which enclosed a notice of intention to enforce MCAP's security pursuant to section 244 of the BIA (collectively, the "**NITES**") and demanded payment of the Indebtedness on or before October 16, 2023. Attached as **Exhibit "V"** is a copy of the Demand Letter and NITES.

(d) Subsequent Defaults under the Commitment Letter

41. Following the issuance of the Demand Letter and NITES, as described above, Vandyk-Kings Mill permitted the following Construction Liens, described in paragraph 24, above, to be registered on title:

- (a) the Automated Fire Protection Systems Inc. Construction Lien registered October 12, 2023 as Instrument No. AT6439372;
- (b) the Dolvin Mechanical Contractors Limited Construction Lien registered October 13, 2023 as Instrument No. AT6440475;
- (c) the Stephenson's Rental Services Inc. Construction Lien registered October 23, 2023 as Instrument No. AT6445158;
- (d) the Read Jones Christoffersen Ltd. Construction Lien registered October 24, 2023 as Instrument No. AT6445871;
- (e) the Lido Wall Systems Inc. Construction Lien registered November 8, 2023 as Instrument No. AT6456380;

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- (f) the Venice Construction Inc. Construction Lien registered November 9, 2023 as Instrument No. AT6457030;
- (g) the Classic Tile Contractors Limited Construction Lien registered November 9, 2023 as Instrument No. AT6457231;
- (h) the Summit Concrete & Drain Ltd. Construction Lien registered November 10, 2023 as Instrument No. AT6457806;
- (i) the 2164705 Ontario Inc. Construction Lien registered November 15, 2023 as Instrument No. AT6459778; and
- (j) the Primeline Windows & Doors Inc. Construction Lien registered November 16, 2023 as Instrument No. AT6461236.

VI. NEED FOR A CONSTRUCTION RECEIVER

42. As of November 22, 2023, the aggregate indebtedness of Vandyk-Kings Mill due and owing to MCAP is \$37,952,101.38, excluding professional fees, disbursements and HST (the “**Indebtedness**”). Attached as **Exhibit “W”** is a copy of the Statement of Indebtedness as of November 22, 2023.

43. Certain events of default have occurred under the Commitment Letter, which are ongoing and outstanding. As a result, MCAP has demanded payment in full of the Indebtedness. The statutory notice period provided for under the BIA and outlined in the NITES has expired.

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44. MCAP has lost all confidence in the management of the Debtor in view of the BDO Report, including the evidence of the diversion of \$11 million to other projects and the registration of over \$16 million in Construction Liens.

45. MCAP requires the appointment of the Construction Receiver so that MCAP can finance the Project in order to preserve the value of its collateral.

46. The appointment of KSV as Construction Receiver is necessary for construction to continue as MCAP is not prepared to continue to fund the Project in the face of the Construction Liens without a Construction Receiver in place and a court-ordered super-priority charge for any financing.

47. Upon appointment, the proposed Construction Receiver will secure the Project, continue to assess the financial state of the Project, and determine a strategy to maximize realization for the benefit of the Debtor's stakeholders.

48. MCAP has suffered and is expected to continue to suffer substantial prejudice unless the proposed Construction Receiver is appointed to immediately secure the Project and take over control and management of the Project.

49. The appointment of KSV as Construction Receiver is also necessary in order to administer and manage the Project, conduct sales, deal with the lien claims and the applicable holdbacks and trust funds pursuant to the Construction Act, as appropriate, with a view to preserving the value of the Project and minimizing the prejudice to the stakeholders, including MCAP and the lien claimants.

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50. MCAP is prepared to provide financing to the Construction Receiver in connection with the Project, as necessary and pursuant to the issuance of Receiver's Certificates in its favour, on the condition that the financing be in priority to all other charges and encumbrances and in priority to all present and future construction liens and trust claims, whether or not perfected or preserved, in accordance with the terms of the Commercial List Users Committee Model Receivership Appointment Order and section 78(7) of the Construction Act.

51. If this Honourable Court sees fit to make such an appointment, KSV has consented to act as Construction Receiver. KSV is a licensed insolvency trust and has significant experience in mandates of this nature. Attached as **Exhibit "X"** is a copy of KSV's Consent to Act as Construction Receiver.

52. KSV is familiar with the Vandyk entities, having been appointed as Receiver over another Vandyk construction project on November 14, 2023 in Court File No. CV-23-00709180-00CL. The appointment of KSV as Construction Receiver will provide a smooth transition to a receivership.

53. I swear this affidavit in support of MCAP’s application to appoint KSV as Construction Receiver and for no improper purpose.

SWORN by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:
Heather Fisher
2F7B29C04CC6424...

Heather Fisher (75006L)
Commissioner for Taking Affidavits

DocuSigned by:
Michael Misener
C97C20BDF32547B...

MICHAEL MISENER

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "A" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



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* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION:

PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN 66R28992; S/T EASEMENT IN FAVOUR OF PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN A4865050; T/W EASEMENT OVER PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN A4865050 & A4865051; S/T INTEREST OF THE CITY OF TORONTO AS IN E186721; TOGETHER WITH A RIGHT OF WAY OVER PTS 7, 8, 9 66R28992 AS IN A4478688; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN A5347804; SUBJECT TO AN EASEMENT IN GROSS OVER PART 7, 66R28992 AS IN A5347808; SUBJECT TO AN EASEMENT IN GROSS OVER PART 6, 66R28992 AS IN A5347812; SUBJECT TO AN EASEMENT AS IN A5367415; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN A5479699; CITY OF TORONTO

PROPERTY REMARKS:

FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2018/04/13. PLANNING ACT CONSENT IN DOCUMENT A4865050.

ESTATE/QUALIFIER:

RECENTLY:
DIVISION FROM 07500-0078

PIN_CREATION_DATE:
2018/06/06

FEE SIMPLE

LT ABSOLUTE PLUS

OWNERS' NAMES

VANDYK - BACKYARD KINGS MILL LIMITED

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2018/06/06 **					
**SUBJECT TO	SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPHS 3 AND 14 AND *					
**	PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **					
**	TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **					
E1860013	1955/10/24	AGREEMENT			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
E163037	1956/01/03	CERTIFICATE			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
E177163	1956/11/19	AGREEMENT			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
E181933	1957/04/04	AGREEMENT			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
E186721	1957/07/29	BYLAW			TOWNSHIP OF ETOBICOKE	C
E186451	1957/09/06	AGREEMENT			J LANG ASSET MANAGEMENT INC.	C
AT3907826	2015/06/09	CHARGE		*** DELETED AGAINST THIS PROPERTY *** 2384903 ONTARIO INC.	HRJL REAL ESTATE INVESTMENT LP	C
CORRECTIONS: PARTY TO NAME:HRJL REAL ESTATE INVESTMENT LP ADDED ON 2016/08/24 AT 15:45 BY GARRETT, TRACEY.						
AT3907827	2015/06/09	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** 2384903 ONTARIO INC.	J LANG ASSET MANAGEMENT INC.	C
REMARKS: AT3907826						
CORRECTIONS: PARTY TO NAME:HRJL REAL ESTATE INVESTMENT LP ADDED ON 2016/08/24 AT 15:45 BY GARRETT, TRACEY.						
AT4276176	2016/07/13	AFL CH NAME OWNER		2384903 ONTARIO INC.	VANDYK - BACKYARD HUMBERSIDE LIMITED	C

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERY/CHRD
AT4296558	2016/08/02	CHARGE		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED	MERIDIAN CREDIT UNION LIMITED	
AT4296559	2016/08/02	NO ASSGN RENT GEN REMARKS: RENTS AT4296558		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED	MERIDIAN CREDIT UNION LIMITED	
AT4296582	2016/08/02	POSTPONEMENT REMARKS: AT3907826 TO AT4296558		*** DELETED AGAINST THIS PROPERTY *** J LANG ASSET MANAGEMENT INC. HRJL REAL ESTATE INVESTMENT LP	MERIDIAN CREDIT UNION LIMITED	
66R25992	2016/10/28	PLAN REFERENCE				C
AT4478657	2017/02/02	NOTICE REMARKS: SITE PLAN AGT.; PTS 1,2,3,9,15,16,17,18,22 PLAN 66R28992	\$2	CITY OF TORONTO		C
66R25993	2018/04/13	PLAN REFERENCE				C
AT4865050	2018/05/16	TRANSFER		VANDYK - BACKYARD HUMBERSIDE LIMITED	VANDYK - BACKYARD KINGS MILL LIMITED	C
AT4890817	2018/06/20	CHARGE		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD QUEENSVIEW LIMITED VANDYK - BACKYARD KINGS MILL LIMITED VANDYK-SHOPPES OF STONEGATE LIMITED	KINGSSETT MORTGAGE CORPORATION	
AT4890818	2018/06/20	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** VANDYK-BACKYARD HUMBERSIDE LIMITED VANDYK-BACKYARD QUEENSVIEW LIMITED VANDYK-BACKYARD KINGS MILL LIMITED VANDYK-SHOPPES OF STONEGATE LIMITED	KINGSSETT MORTGAGE CORPORATION	
AT4891678	2018/06/21	DISCH OF CHARGE REMARKS: AT3907826.		*** COMPLETELY DELETED *** J LANG ASSET MANAGEMENT INC. HRJL REAL ESTATE INVESTMENT LP		
AT5186698	2019/07/16	CHARGE		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD KINGS MILL LIMITED	KINGSSETT MORTGAGE CORPORATION	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERY/ CHRD
AT5200718	2019/07/31	LR'S ORDER REMARKS: TO AMEND PIN TO ADD PART 9	66629993	LAND REGISTRAR, TORONTO LAND REGISTRY OFFICE TO EASEMENT AT478658		C
AT5327060	2019/12/20	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** GREAT PYRAMID GLASS AND MIRROR LTD.		
AT5338546	2020/01/10	APL AMEND ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	GREAT PYRAMID GLASS AND MIRROR LTD.	
AT5347788	2020/01/22	NOTICE		CITY OF TORONTO		C
AT5347793	2020/01/22	TRANSFER RELABAND REMARKS: AT4865049. PARTIAL RELEASE	\$2	VANDYK-BACKYARD KINGS MILL LIMITED AS TO PARTS 10, 13, 14 AND 28, 66R28992 AND PART 1, 66R30958	CITY OF TORONTO	C
AT5347804	2020/01/22	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
AT5347805	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
AT5347806	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	
AT5347807	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
AT5347808	2020/01/22	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
AT5347809	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
AT5347810	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	
AT5347811	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	

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AT5347812	2020/01/22	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
AT5347813	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	
		REMARKS: AT4296558 TO AT5347812				
AT5347814	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
		REMARKS: AT4890817 TO AT5347812				
AT5347815	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
		REMARKS: AT5186698 TO AT5347812				
AT5348063	2020/01/22	APL (GENERAL)		VANDYK-SHOPPES OF STONEGATE LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347804.				
AT5348064	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347804.				
AT5348065	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347804.				
AT5348066	2020/01/22	APL (GENERAL)		VANDYK-SHOPPES OF STONEGATE LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347808				
AT5348067	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347808.				
AT5348068	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347808				
AT5348069	2020/01/22	APL (GENERAL)		VANDYK-SHOPPES OF STONEGATE LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347812.				
AT5348070	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347812				
AT5348071	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865050 TO AT5347812.				
AT5367415	2020/02/19	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	ROGERS COMMUNICATIONS INC.	C

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AT5380929	2020/03/04	CHARGE	\$30,000,000	VANDYK - BACKYARD KINGS MILL LIMITED	WESTMOUNT GUARANTEE SERVICES INC.	C
AT5399678	2020/04/01	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** NANO INDUSTRIES ONTARIO INC.		
AT5406606	2020/04/14	APL DEL CONST LIEN		*** COMPLETELY DELETED *** VANDYK - BACKYARD KINGS MILL LIMITED VANDYK - BACKYARD HUMBERSIDE LIMITED		
		REMARKS: AT5399678.				
AT5430161	2020/05/15	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	WESTMOUNT GUARANTEE SERVICES INC.	
		REMARKS: AT4890817 TO AT5380929				
AT5430162	2020/05/15	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	WESTMOUNT GUARANTEE SERVICES INC.	
		REMARKS: AT5186698 TO AT5380929				
AT5436497	2020/05/26	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EMPIRE CONTROLS LTD.		
AT5443208	2020/06/03	APL DEL CONST LIEN		*** COMPLETELY DELETED *** EMPIRE CONTROLS LTD.		
		REMARKS: AT5436497.				
AT5472421	2020/07/14	DISCH OF CHARGE		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION		
		REMARKS: AT5186698.				
AT5479699	2020/07/23	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
AT5479700	2020/07/23	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	C
		REMARKS: AT4890817 TO AT5479699				
AT5479701	2020/07/23	POSTPONEMENT		MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	C
		REMARKS: AT4296558 TO AT5479699				
AT5479702	2020/07/23	POSTPONEMENT		ROGERS COMMUNICATIONS INC.	CITY OF TORONTO	C
		REMARKS: AT55367415 TO AT5479699				
AT5479703	2020/07/23	POSTPONEMENT		WESTMOUNT GUARANTEE SERVICES INC.	CITY OF TORONTO	C
		REMARKS: AT5380829 TO AT5479699				

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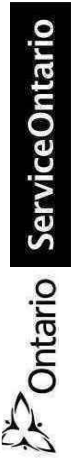
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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERY/ CHRD
AT5479777	2020/07/23	APL (GENERAL) REMARKS: AT4865050 POSTPONED TO AT5479699		VANDYK-BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
AT5479778	2020/07/23	APL (GENERAL) REMARKS: AT4865050 POSTPONED TO AT5479699		VANDYK-BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
AT5479779	2020/07/23	APL (GENERAL) REMARKS: AT4865050 POSTPONED TO AT5479699		VANDYK-BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
AT5531340	2020/09/29	NOTICE	\$2	VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD QUEENSVIEW LIMITED VANDYK - BACKYARD KINGSMILL LIMITED		C
AT5531477	2020/09/29	TRANSFER RELABAND REMARKS: AT4865049.		VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD KINGS MILL LIMITED VANDYK - BACKYARD QUEENSVIEW LIMITED	VANDYK - BACKYARD HUMBERSIDE LIMITED	C
AT5581120	2020/11/26	CHARGE	\$104,500,000	VANDYK - BACKYARD KINGS MILL LIMITED	MCAP FINANCIAL CORPORATION	C
AT5581121	2020/11/26	NO ASSGN RENT GEN REMARKS: AT5581120.		VANDYK - BACKYARD KINGS MILL LIMITED	MCAP FINANCIAL CORPORATION	C
AT5581126	2020/11/26	POSTPONEMENT REMARKS: AT5380929 TO AT5581120 TO AT5581121		WESTMOUNT GUARANTEE SERVICES INC.	MCAP FINANCIAL CORPORATION	C
AT5582589	2020/11/27	DISCH OF CHARGE REMARKS: AT4890817.		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION		
AT5677735	2021/03/16	DISCH OF CHARGE REMARKS: AT4296558.		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED		
AT5680013	2021/03/18	NOTICE	\$2	CITY OF TORONTO	CITY OF TORONTO	C
AT5680014	2021/03/18	POSTPONEMENT REMARKS: AT5380929 TO AT5680013		WESTMOUNT GUARANTEE SERVICES INC.	CITY OF TORONTO	C
AT5680015	2021/03/18	POSTPONEMENT REMARKS: AT5581120 TO AT5680013		MCAP FINANCIAL CORPORATION	CITY OF TORONTO	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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LAND REGISTRY OFFICE #66

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 7 OF 8
PREPARED FOR Galluzzo
ON 2023/11/22 AT 10:34:19

07500-0082 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
AT5717411	2021/04/27	CERTIFICATE REMARKS: CERTIFICATE OF REQUIREMENT		HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF THE ENVIRONMENT, CONSERVATION AND PARKS S.197(2) ENVIRONMENTAL PROTECTION ACT		C
AT6340102	2023/05/25	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** DOLVIN MECHANICAL CONTRACTORS LIMITED		
AT6356023	2023/06/15	APL DEL CONST LIEN REMARKS: AT6340102.		*** COMPLETELY DELETED *** DOLVIN MECHANICAL CONTRACTORS LIMITED		
AT6360204	2023/06/22	CONSTRUCTION LIEN		*** DELETED AGAINST THIS PROPERTY *** RONI EXCAVATING LIMITED		
AT6375492	2023/07/14	APL DEL CONST LIEN REMARKS: AT6360204.		*** COMPLETELY DELETED *** RONI EXCAVATING LIMITED		
AT6407063	2023/08/25	CONSTRUCTION LIEN	\$743,323	DIRCAM ELECTRIC LIMITED		C
AT6408162	2023/08/29	CONSTRUCTION LIEN	\$103,508	DIRCAM ELECTRIC LIMITED		C
AT6423816	2023/09/20	CONSTRUCTION LIEN	\$61,359	KOHN PARTNERSHIP ARCHITECTS INC.		C
AT6424435	2023/09/20	CONSTRUCTION LIEN	\$9,899,781	PLYCON FORMING LTD.		C
AT6426188	2023/09/22	CONSTRUCTION LIEN	\$558,195	VIOLA READY MIX INC.		C
AT6427885	2023/09/26	CONSTRUCTION LIEN	\$500,488	MYER SALIT LIMITED		C
AT6439372	2023/10/12	CONSTRUCTION LIEN	\$240,354	AUTOMATED FIRE PROTECTION SYSTEMS INC.		C
AT6440475	2023/10/13	CONSTRUCTION LIEN	\$2,251,028	DOLVIN MECHANICAL CONTRACTORS LIMITED		C
AT6445158	2023/10/23	CONSTRUCTION LIEN	\$42,222	STEPHENSON'S RENTAL SERVICES INC.		C
AT6445871	2023/10/24	CONSTRUCTION LIEN	\$6,215	READ JONES CHRISTOFFERSEN LTD.		C
AT6448252	2023/10/26	CERTIFICATE		STEPHENSON'S RENTAL SERVICES INC.		C
AT6451921	2023/11/01	CERTIFICATE		DIRCAM ELECTRIC LIMITED		C
AT6453188	2023/11/02	CERTIFICATE		VIOLA READY MIX INC.		C

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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PAGE 8 OF 8
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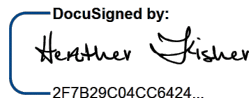
* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
AT6456380	2023/11/08	CONSTRUCTION LIEN	\$849,376	LIDO WALL SYSTEMS INC.		C
AT6456905	2023/11/09	CERTIFICATE REMARKS: AT6427885		MYER SALIT LIMITED		C
AT6456920	2023/11/09	CERTIFICATE REMARKS: AT6440475		DOLVIN MECHANICAL CONTRACTORS LIMITED		C
AT6457030	2023/11/09	CONSTRUCTION LIEN	\$260,581	VENICE CONSTRUCTION INC.		C
AT6457231	2023/11/09	CONSTRUCTION LIEN	\$359,360	CLASSIC TILE CONTRACTORS LIMITED		C
AT6457806	2023/11/10	CONSTRUCTION LIEN	\$61,302	SUMMIT CONCRETE & DRAIN LTD.		C
AT6458916	2023/11/14	CERTIFICATE REMARKS: A6424435 CERTIFICATE OF ACTION		PLYCON FORMING LTD.		C
AT6459778	2023/11/15	CONSTRUCTION LIEN	\$18,552	2164705 ONTARIO INC.		C
AT6460838	2023/11/15	CERTIFICATE REMARKS: AT6457806		SUMMIT CONCRETE & DRAIN LTD.		C
AT6461236	2023/11/16	CONSTRUCTION LIEN	\$336,966	PRIMELINE WINDOWS & DOORS INC.		C

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This is Exhibit "B" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

Ministry of Public and
Business Service Delivery

Profile Report

VANDYK - BACKYARD KINGS MILL LIMITED as of November 22, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	VANDYK - BACKYARD KINGS MILL LIMITED
Ontario Corporation Number (OCN)	2509402
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	March 16, 2016
Registered or Head Office Address	1944 Fowler Drive, Mississauga, Ontario, Canada, L5K 0A1

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

A handwritten signature in black ink, appearing to read "V. Quintanilla W.", written over a light blue background.

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.

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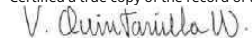
Transaction Number: APP-A10319108321
Report Generated on November 22, 2023, 10:38

Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name	JOHN VANDYK
Address for Service	1944 Fowler Drive, Mississauga, Ontario, Canada, L5K 0A1
Resident Canadian	Yes
Date Began	March 16, 2016

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



Director/Registrar

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Transaction Number: APP-A10319108321
Report Generated on November 22, 2023, 10:38**Active Officer(s)****Name****Position****Address for Service****Date Began**

JOHN VANDYK

President

1944 Fowler Drive, Mississauga, Ontario, Canada, L5K 0A1

March 16, 2016

Name**Position****Address for Service****Date Began**

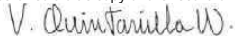
JOHN VANDYK

Secretary

1944 Fowler Drive, Mississauga, Ontario, Canada, L5K 0A1

March 16, 2016

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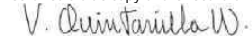
Corporate Name History

Name

Effective Date

VANDYK - BACKYARD KINGS MILL LIMITED
March 16, 2016

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



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.

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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

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Transaction Number: APP-A10319108321
Report Generated on November 22, 2023, 10:38**Document List**

Filing Name	Effective Date
Annual Return - 2020 PAF: JOHN VANDYK - DIRECTOR	February 21, 2021
Annual Return - 2019 PAF: JOHN VANDYK - DIRECTOR	March 22, 2020
Annual Return - 2018 PAF: JOHN VANDYK - DIRECTOR	August 11, 2019
Annual Return - 2017 PAF: JOHN VANDYK - DIRECTOR	November 26, 2017
Annual Return - 2016 PAF: JOHN VANDYK - DIRECTOR	June 25, 2017
CIA - Initial Return PAF: BRUCE MILBURN - OTHER	March 17, 2016
BCA - Articles of Incorporation	March 16, 2016

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

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

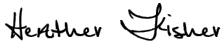
V. Quintanilla W.

Director/Registrar

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DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "C" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



April 28, 2020

Vandyk-Backyard Kings Mill Limited
 c/o Vandyk Communities
 1944 Fowler Drive,
 Mississauga, ON,
 L5K 0A1

ATTENTION: Richard Ma

RE: Kings Mill Condos, Loan # 19-6493-T41/91 234-unit condominium building, 15 Neighbourhood Ln., Etobicoke, ON

MCAP Financial Corporation ("MCAP") is pleased to advise that we are prepared to offer the following loan facilities subject to the terms and conditions outlined below (hereinafter called the "Commitment").

Borrower Name: Vandyk-Backyard Kings Mill Limited, beneficially owned 100% by Vandyk-Backyard Humberside Limited, owned 100% by Vandyk Holdings Incorporated, owned 100% by John Vandyk (the "Borrower")

Lender: MCAP (the "Lender")

Guarantor: The personal guarantee of John Vandyk in the amount of \$40,000,000 and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited (the "Guarantor")

Project Description: "Kings Mill Condos" being the construction of a 8 & 10-storey, 234-unit residential condominium building consisting of 184,224 SF of GFA and 152,247 SF of NSA, with 210 parking stalls provided over 3 levels of underground, located at 15 Neighbourhood Lane, north of the Queensway and west of the Humber River, in Etobicoke. The building statistics are summarized as follows:

	Total
# of Units	234
Gross Floor Area	184,224
Net Saleable Area	152,247
Average Unit Size	651
Efficiency Ratio	82.6%

The building unit mix and revenue is summarized as follows:

Unit Type	Total					
	# of Units	Total Revenue	Total SF	Avg. SF/Unit	Avg. \$/Unit	Avg. \$/SF
Studio	7	\$ 2,553,930	2,821	403	\$ 364,847	\$ 905
1 Bed	27	\$ 11,725,730	13,485	499	\$ 434,286	\$ 870
1 Bed + Den	110	\$ 51,720,900	63,837	580	\$ 470,190	\$ 810
1 Bed + Media	10	\$ 4,737,900	5,939	594	\$ 473,790	\$ 798
2 Bed	44	\$ 24,810,560	32,505	739	\$ 563,876	\$ 763
2 Bed + Den	13	\$ 8,462,870	11,499	885	\$ 650,990	\$ 736
3 Bed	11	\$ 7,729,890	9,683	880	\$ 702,717	\$ 798
3 Bed + Den	12	\$ 9,083,880	12,478	1,040	\$ 756,990	\$ 728
Total	234	\$ 120,825,660	152,247	651	\$ 516,349	\$ 794

(the "Project")

CL - Vandyk - Kings Mill - Conventional - April 2020

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

April 28, 2020

Legal Description:	TBD by the Lender's solicitor.		
Loan Facility:	Facility 1:	\$79,555,000	1 st Mortgage Non-revolving Construction Loan
	Facility 2:	\$ 4,000,000	Letters of Credit
	Collectively, Facilities 1 & 2 shall be defined as the "Loan Facility".		
Purpose:	Facility 1:	To provide a non-revolving construction facility to assist with the development and construction of the subject Project, inclusive of finance costs.	
	Facility 2:	To provide Letters of Credit to be issued in favour of various governmental authorities in support of the Borrower's obligations under regional and municipal agreements in respect to the subject Project.	
Interest Rate:	Facility 1:	The greater of RBC Prime + 2.00% or 5.70% per annum (the "Floor Rate"). It is understood that the Floor Rate is determined by the Lender's cost of funds at a certain date and provides a certain economic return to the Lender. In order to preserve that economic return, the Lender in its sole and absolute discretion may adjust the Floor Rate at any time prior to the first disbursement of funds under the Construction Loan to reflect: (i) a change in the Lender's cost of funds and (ii) general market conditions that adversely affect the financial sector.	
	Facility 2:	No interest shall accrue on this Facility until the Letters of Credit are drawn upon, in which case such draw amounts shall be converted to direct borrowings under Facility 1 with interest calculated and payable at the same rate as prescribed for Facility 1.	
	Interest on the Loan Facility shall be calculated daily and compounded and payable monthly not in advance based on the number of days that the loan is outstanding.		
Term:	Facility 1:	Repayable on demand by the Lender, however, without prejudice to the right of the Lender to demand payment at any time for any reason whatsoever, the Lender acknowledges that the repayment schedule proposed by the Borrower forecasts the repayment of any drawn amounts under Facility 1 including interest within 32 months of the first day of the month following the first advance of funds under Facility 1 ("Maturity Date"). Subject to there having been no default by the Borrower or the Guarantor during the original term of the loan, two extension periods of up to 3 months each may be granted at the Lender's option subject to payment of the Extension Fee.	
Commitment Fees:	\$795,550 deemed earned upon acceptance and payable as follows:		
	(a) \$80,000 upon acceptance of the Letter of Interest (received).		
	(b) \$100,000 payable upon acceptance of the Commitment.		
	(c) \$615,550 payable the earlier of November 1, 2020 or from the 1 st advance under Facility 1.		
	The Borrower acknowledges that these fees are a reasonable estimate of the Lender's cost incurred in sourcing, investigating, underwriting and preparing the Loan Facility and holding monies available to fund the Loan Facility and that said fee is still earned by the Lender if the Loan Facility is not advanced.		
Placement Fees:	\$120,000 deemed earned upon acceptance of the Commitment and payable to MCAP upon the earlier of November 30, 2020 or from the 1 st advance under Facility 1.		

CL - Vandyk - Kings Mill - Conventional - April 2020

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

April 28, 2020

Letter of Credit Fee:	<p>Facility 2: 2.0% per annum payable annually in advance, subject to a minimum fee of \$350 annually per LC.</p> <p>Any amendments to a Letter of Credit will be subject to a minimum fee of \$500 per amendment.</p>
Discharge Fee:	A discharge fee ("Discharge Fee") of \$500 per document shall be deemed earned by the Lender and payable by the Borrower prior to the delivery of any discharge until such time as the Loan Facility is fully repaid.
Administration Fee:	The Lender shall charge an administration fee ("Administration Fee") of \$700 per advance throughout the term of the loan.
Extension Fee:	An extension fee of 0.20% of the authorized loan facility excluding Letters of Credit shall become due and payable for each 3-month extension period following the Maturity Date until full repayment.
Repayment:	<p><u>Facility 1</u></p> <p>Interest on the Loan Facility shall accrue at the Interest Rate. Until the Interest Reserve of \$7,000,000 is fully utilized and prior to default, the Lender will capitalize interest accrued at the first day of each month. Such capitalized interest shall bear interest at the Interest Rate. The Lender reserves the right at its sole discretion to stop advancing from the Interest Reserve account in the event of construction delays, slower than projected sales performances, or cost overruns, in which event all monthly interest must be paid by the Borrower as billed by the Lender. Upon full utilization of the Interest Reserve, interest will be paid by way of pre-authorized debits to the Borrower's Project account.]</p> <p>Unit sale proceeds from the Project will be used to repay the Loan Facility. All outstanding principal, interest and other monies contemplated herein are due; (a) on demand, at the option of the Lender, in the Event of Default by the Borrower or Guarantor in observing and performing their respective obligations hereunder or under the Security and (b) upon the Maturity Date or any renewal thereof.</p>
Partial Discharges:	<p>Provided there has been no default, the Lender will provide partial discharges upon payment of the following principal amounts together with the Discharge Fee:</p> <p>Partial Discharges shall be provided in respect to each condominium unit upon payment to the Lender of 100% of Net Closing Proceeds for the said condominium unit, to be applied first to Facility 1, and then to cash secure any outstanding letters of credit pursuant to Facility 2.</p> <p>Net Closing Proceeds is defined as the gross unit sale price (as presented in Schedule 'C') – plus parking stall revenue and closing adjustments – less HST, purchasers' deposits utilized in the Project, approved legal fees, and sales commissions.</p> <p>Upon full repayment of all principal, interest and other amounts due under Facility 1 partial discharges shall be provided upon payment of 100% of Net Closing Proceeds which shall be deposited with the Lender until such time as the outstanding Letters of Credit are fully cash secured.</p>
Prepayment:	If not in default, the Borrower shall have the right without penalty upon 30 days written notice to the Lender to prepay the Loan Facility at any time subject to the Lender receiving all applicable fees as described herein and any accrued interest. Prepayment from sales of individual units will be allowed without penalty.

CL - Vandyk - Kings Mill - Conventional - April 2020

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

April 28, 2020

Security:

The Borrower, prior to any advance of funds, shall deliver the following security documents, (collectively the "Security") which shall be in form, scope and substance satisfactory to the Lender and its legal counsel:

1. Mortgage with a principal amount of \$104,500,000 granting a first fixed charge against the Project and an Assignment of Rents therefrom.
2. The personal guarantee of John Vandyk in the amount of \$40,000,000 plus interest and expenses and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited plus interest and expenses and an assignment and postponement of claims by the Guarantor and all shareholders of the Borrower relating to any claims against the Borrower.
3. Joint and several covenants from the Borrower and Guarantor to fund any and all cost overruns in excess of the various components of the Project Budget as set out in the Financing Program as and when such overruns occur and prior to any further funding by the Lender. In addition, the Borrower and Guarantor covenant to continue construction and complete the Project once construction has begun, in accordance with the plans approved by the Lender.
4. General Security Agreement registered under the Personal Property Security Act Ontario granting a first general assignment of:
 - Book Debts, Rents and Leases of the Borrower in respect to the Project.
 - Agreements of Purchase and Sale inclusive of Purchasers' Deposits which are to be injected into the Project to fund costs and/or held in accordance with the Real Estate Act.
 - All present and after acquired personal property of the Borrower.
 - Construction, supply and consulting contracts related to the Project and specific acknowledged, assignments or acceptable tri-party agreements on those contracts specified by the Lender which may include, but not be limited to, the contracts with the Project architect, engineers, Construction Manager and marketing agents.
 - Rights of the Borrower (a) under all building/development permits and the monies paid thereunder, (b) to all plans, specifications and drawings related to the Project.
5. Hypothecation and Pledge of all the shares of the Borrower.
6. The Lender shall have received an acceptable insurance binder or cover note, to be followed, within 30 days of the issuance of the binder or cover note, with a certified copy of a policy or policies of insurance, satisfactory to the Lender, containing the requirements of Schedule "A" hereto and including evidence of a Comprehensive General Liability Insurance policy for the Project in an amount of not less than \$10,000,000 per occurrence. The Commercial General Liability Policy must reference the project and MCAP is to be added as an additional insured.

Additionally, upon the commencement of construction, the Borrower shall maintain Builder's Risk Insurance, which is satisfactory to the Lender for at least \$68,000,000 which incorporates a standard mortgage clause and which names the Lender as first mortgagee and loss payee.

We will require the insurance policy(ies) to be reviewed by an Independent Insurance Consultant, at the borrower's expense.

7. Indemnification Agreement in respect to any Letters of Credit issued pursuant to Facility 2. Any draws made under the said Letters of Credit shall be converted to direct borrowings under Facility 1.

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8. In the event the Lender elects to hold on deposit the Borrower's cash (the "Cash Collateral Account") or term deposits, GICs or the like, from other financial institutions, to secure the Loan Facility generally or specifically the outstanding Letter of Credit exposure, a specific assignment or charge over the cash, term deposit, GIC, as the case may be, will be required.
9. First assignment of all condominium voting rights upon registration of the units in the Project, exercisable only in the Event of Default.
10. Deposit Insurer to provide a Letter of Undertaking confirming that Deposit Insurer shall execute and deliver to the Lender, a free partial discharge of its Mortgage in respect of any condominium unit comprising part of the Project, together with its appurtenant common interests, on or before the final closing of the unit sale transaction between the Borrower and the purchaser of any such unit, with payments by the Borrower to Lender as described under the Partial Discharge Section. The Borrower shall be responsible for all legal costs required for the preparation of the requested discharge.
11. Postponement Agreement with an acceptable Deposit Insurer, regarding injection of purchaser deposits and security to be taken. It is acknowledged that the Deposit Insurer will require a first charge on purchaser deposits, however, any mortgage security will be fully postponed. In addition, the Deposit Insurer agrees to provide free partial discharges in respect to the units in the Project regardless of default. The said postponement shall also confirm that Deposit Insurer will subordinate to all additional advances which may be required to fund any cost overruns over and above the authorized facilities.
12. A Beneficial Owners ("BO") Agreement wherein the BO directs the registered owner to provide security to the Lender and consents to the same.
13. Negative Pledge by Borrower and Guarantor to not repay any shareholder loans, redeem shares, pay out dividends or increase compensation to principals of Borrower or Guarantor until the Loan Facility has been fully repaid.
14. Such other and further security and documentation as may be required by the Lender or its counsel to complete and perfect the Security.

Funding Conditions:

No funds will be advanced until the Lender has received and approved or waived the following, all in form and substance satisfactory to the Lender and its legal counsel:

1. Receipt and satisfactory review of Notice of Approval Conditions for the Project from the City of Toronto to permit the subject Project as described in the Project Description, with receipt of a shoring and excavation permit prior to the initial advance. The reasonableness of obtaining and the timeline regarding the availability of further staged building permits and trade availability for site construction is to be acceptable to the Lender in its sole discretion, with said further staged building permits to be provided in accordance with the recommendation of the Cost Consultant. In addition, any conditions of approval must be satisfactory to the Lender and Cost Consultant.

BA

 * dated Mar 7, 2018 and the subsequent committee of adjustment decision.

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** dated Mar 7, 2018 and the subsequent communication of adjustment decision*

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2. The Borrower shall have provided evidence in sufficient detail, satisfactory to the Lender and verified by the Lender's Cost Consultant, that the total costs for the Project, including land, hard and soft costs and interest during the construction and the sell out period shall not exceed \$110,388,158 excluding HST costs as detailed under the Financing Program. In addition, Lender's Cost Consultant to confirm the reasonableness of Deferred Costs of up to \$4,531,833 as per the Financing Program. The Cost Consultant is to confirm a minimum of 20% of the Project hard costs are fixed by way of executed fixed price contracts. 75% of Project hard costs are to be fixed by way of executed fixed price contracts within 120 days of the initial advance under Facility 1, failing which no subsequent advances will be processed. Said contracts shall be specifically assigned to the Lender as recommended by the Cost Consultant with acknowledgement from the contractor(s) and/or shall be the subject of tri-party agreement(s) satisfactory to the Lender. Without limiting the foregoing, fixed price contracts are to be in place for the forming concrete work, electrical, plumbing, HVAC, and any contract greater than \$3,000,000.
3. The Borrower shall have delivered to the Lender for approval and to the Lender's Cost Consultant for its inspection and comment copies of all final plans and specifications upon which the construction costs are based. The Borrower shall also provide to the Lender, at the earliest possible date, for approval by the Lender, copies of site plans, Project floor plans, and any market survey materials relating to the Project that were not provided prior to the issuance of this Commitment.
4. The Borrower will not make any single change in excess of \$1,500,000 or any changes cumulatively in excess of \$3,000,000 in the plans and specifications for the Project or the contracts for the construction of the Project, or in the terms of any agreements prejudicially affecting the security of the Lender, without the prior written consent of the Lender.
5. A soils test report (load bearing capacity) by an acceptable professional engineer or such other similar report as is acceptable to the Lender, must be provided, demonstrating to the satisfaction of the Lender and its Cost Consultant that the proposed construction and site improvements of the Project are feasible under existing soil conditions, together with evidence that the construction specifications for the Project provide for construction in compliance with such conditions and with the recommendations, if any, which may be contained in such soils test report.
6. The Borrower will obtain at its own expense Phase 1 and Phase 2 environmental audits, Revised Risk Assessment prepared by Intrinsic and dated June, 2019, and Risk Management Plan prepared by WSP dated June 19, 2019 for the Project lands. Said reports are to provide evidence of a remediation plan that will leave the site environmentally acceptable to Ontario Ministry of the Environment. In addition, the Lender is to be satisfied in its sole discretion as to the reasonableness of and the timeline to obtaining a Record of Site Condition from the Ontario Ministry of Environment. Such environmental audit must be accompanied by the Form of Reliance Certificate (attached to the Commitment Letter as Schedule "E") from the consultant to the Lender and shall confirm that the Lender and its assigns can rely upon such report for lending purposes.
7. Receipt of an Environmental Indemnity Agreement from the Borrower and Guarantor.
8. Borrower to provide an undertaking that the Record of Site Condition will be filed within sixty (60) days of above-grade permit issuance (to be monitored by Lender's Cost Consultant with supporting documentation provided to Lender's satisfaction).

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9. All levies, impost fees, local improvement charges, property taxes and other charges affecting the Project due and payable shall have been paid to the date of the first advance of funds unless they are to be funded as part of the first advance.
10. The Borrower shall have provided the Lender with a survey of the Project by an Ontario licensed land surveyor, indicating no encroachments, easements or rights of way, save those which the Lender may specifically accept and showing the relationship of the lands to public thoroughfares for access purposes.
11. The Lender shall have received from an approved appraiser a satisfactory appraisal confirming a fair market land value of \$16,900,000 for the Project lands on an "as is" (approved) basis. Such appraisal report must be accompanied by the Form of Reliance Certificate (attached to the Commitment Letter as Schedule "E") from the appraiser to the Lender and shall confirm that the Lender and its assigns can rely upon such appraisal for lending purposes.
12. The Borrower and the Project shall be fully registered with Tarion with all proposed residential units having an assigned registration number, all to the satisfaction of the Lender.
13. Confirmation of +/- 212 firm unit presales at proforma prices generating a minimum of \$115,388,790 in gross revenue inclusive of parking revenue. In addition, each presale is to have a minimum of 15% contracted purchaser deposit prior to occupancy (save and except for approved non-qualifying sales) totaling \$17,271,939, of which a minimum aggregate of \$10,000,000 and at least 5% of purchase price per unit is to be received prior to funding, or as per deposit staging requirements, whichever is greater. In addition, satisfactory receipt and review of mortgage pre-approvals, or satisfactory evidence of purchaser's ability to close, for not less than 75% of the presales in place. Also, the Lender is to be satisfied in its sole discretion as to the reasonableness of the Project timeline in relation to the Tarion Critical Dates for the presold units.

"Presale" means the sale of units where the Borrower has entered into a binding unconditional (except for typical closing conditions) agreement of purchase and sale with a bona fide arm's length purchaser where:

- a) The Borrower has provided a copy of the executed purchase and sale agreement to the Lender;
- b) The purchaser has provided evidence of approval for mortgage financing or has otherwise demonstrated his/her ability to close as required herein however, up to 25% of the approved presales may be comprised of sales where the purchaser has not provided such information;
- c) The purchase and sale agreement provides for a minimum non-refundable cash deposit of not less than 15% without including any deposits receivable on unit occupancy of the agreed upon purchase price;
- d) All deposits have been received by the Borrower or are held in trust by a lawyer in accordance with the purchase and sale agreement.

Note: The Lender may permit no more than 20 non-qualifying presales to be included in the presale coverage calculation (inclusive of unit #'s: 226, 319, 605, 807, 817), at the Lender's discretion. Non-qualifying sales may include:

- a. Units sold in a non-arm's length transaction;
- b. Multiple units sold to the same purchaser (multi-unit purchasers);
- c. Units for which there is a deposit shortfall to the above-noted structure; and/or,
- d. Units for which its sale price is less than the minimum selling price listed under Schedule 'C' of the Commitment Letter.

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14. Receipt and satisfactory review by the Lender and its counsel of all Condominium Disclosure Documents, Parking Agreements, Reciprocal Agreements, sales and rental disclosure statements and standard form Agreements of Purchase and Sale relating to the Project.
15. Receipt and satisfactory review of the Agreement of Purchase and Sale with respect to the original acquisition of the Project lands (and any subsequent amendments or side letters related thereto).
16. Receipt and satisfactory review of a personal net worth and/or financial statement(s) from the Borrower and each of the Guarantors on MCAP's Standard Form, duly signed and witnessed (attached to the Commitment Letter as Schedule "D"). In addition the Lender is to receive satisfactory credit reports for the Borrower and Guarantor, both prior to the initial advance and at any time thereafter, as required by the Lender, until the Loan Facility is fully repaid.
17. Receipt and satisfactory review of any cost sharing agreements related to the subject Project, by the Lender, its cost consultant and legal counsel.
18. Receipt and satisfactory review of a Commitment Letter from a satisfactory Deposit Insurer pertaining to the subject Project permitting the release of deposits to fund Project costs, with confirmation that total insured deposits to be released to be not less than \$17,271,939.
19. Receipt and satisfactory review of completed Identification Verification and Attestation Form as required under Federal Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations attached to the Commitment under Schedule 'F'.
20. Satisfactory confirmation that "Building 'A'" in the "Backyard Condos" development is fully closed.
21. The Borrower to open the Project account with a credit union, to be determined by the Lender at a later date.
22. Full repayment of the West Park Village project (Loan #: 12-0296-T23/24/91/92/93) inclusive of related letters of credit being cash secured or cancelled.
23. Such other information that the Lender may reasonably require.

Availability:

Facility 1

1. All advances to complete the construction of the Project shall be funded on a cost to complete basis supported by satisfactory inspection certificates, and in amounts not less than \$100,000 and not more frequently than once per month. The outstanding balance of all advances under the Loan Facility are, at all times, not to exceed \$79,555,000.
2. All requests for advances shall in writing including the following, each in a form and substance satisfactory to, and subject to inspection by the Lender;
 - (i) Details of costs in place and references to the Project Budget.
 - (ii) Certificate from the Lender's Cost Consultant indicating:
 - (a) Cost of work in place;
 - (b) That the work to date is in accordance with the plans and specifications previously submitted to the Lender;
 - (c) Interest, the amount of holdbacks, and cost to complete; and,
 - (d) Estimated completion date.
 - (iii) Report from the Lender's legal counsel showing clear title.

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3. Accumulated advances shall at no time exceed the cost of work in place less Appraisal Surplus of \$9,029,386, deferred costs incurred of up to \$4,531,833, staged purchaser deposits utilized in the Project of \$17,271,939, and applicable holdbacks as required under applicable provincial lien legislation, based on the Project Monitor's recommendation and title search confirming absence of liens. In addition, the cost to complete net of deferred costs and deposits to be received shall at no time exceed the unadvanced portion of funds under the Facility.
4. The Lender reserves the right in its sole discretion, to make progress advances directly to the subtrades and/or suppliers, if the Borrower is in default or if advances are being diverted from the project. For each advance, the Borrower shall sign a Statutory Declaration satisfactory in substance to the Lender's legal counsel confirming that all loan proceeds are being used solely to pay for payables in respect to the Project, which are being financed by the Lender pursuant to the various Loan Facilities provided for in this Letter of Commitment (eg. third-party hard construction cost payables only), and for no other purposes whatsoever, either in respect to the Project or otherwise. Any use of any such funds for any purpose, either within the Project, or otherwise, except as set out herein, shall constitute a default of this Loan.

The first advance of funds provided for herein shall be advanced no later than 60 days from the date of this Commitment.

In the event that the first advance of funds is not made for any reason whatsoever on or before that date, at the option of the Lender, its obligations under this Commitment shall cease and it shall be released of any present or further obligations. Notwithstanding the foregoing, the Borrower and Guarantor shall remain liable for any outstanding fees and costs as set out herein.

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Project Economics:

	Total
# of Units	234
Gross Floor Area	184,224
Net Saleable Area	152,247
Average Unit Size	651
Efficiency Ratio	82.6%

	Total	Per Unit	P.S.F.	%
<i>Sold Residential Unit Revenue</i>	\$ 109,144,790	\$ 514,834	\$ 792	90.7%
<i>Unsold Residential Unit Revenue</i>	\$ 11,894,780	\$ 540,672	\$ 824	9.9%
<i>Sold Parking Revenue</i>	\$ 6,244,000	\$ 30,759	N/A	5.2%
<i>Unsold Parking Revenue</i>	\$ 924,500	\$ 29,823	N/A	0.8%
<i>Closing Recoveries</i>	\$ 1,873,736	\$ 8,007	\$ 12	1.6%
Gross Revenue	\$ 130,081,806	\$ 555,905	\$ 854	108.1%
<i>Less: HST</i>	\$ 9,779,689	\$ 41,794	\$ 64	8.1%
Net Revenue	\$ 120,302,117	\$ 514,112	\$ 790	100.0%
<i>Allocated Land Cost</i>	\$ 7,870,614	\$ 33,635	\$ 43	6.5%
<i>Appraisal Surplus</i>	\$ 9,029,386	\$ 38,587	\$ 49	7.5%
Total Land Cost	\$ 16,900,000	\$ 72,222	\$ 92	14.0%
<i>Cost of Construction</i>	\$ 63,337,100	\$ 270,671	\$ 344	52.6%
<i>Construction Contingency</i>	\$ 2,995,182	\$ 12,800	\$ 16	2.5%
<i>Construction Management</i>	\$ 1,461,064	\$ 6,244	\$ 8	1.2%
Construction Costs	\$ 67,793,346	\$ 289,715	\$ 368	56.4%
<i>Sales Commissions</i>	\$ 4,838,266	\$ 20,676	\$ 26	4.0%
<i>Marketing and Advertising</i>	\$ 150,000	\$ 641	\$ 1	0.1%
Selling Costs	\$ 4,988,266	\$ 21,317	\$ 27	4.1%
<i>Development Charges</i>	\$ 7,031,862	\$ 30,051	\$ 38	5.8%
<i>DC Increases</i>	\$ 1,119,536	\$ 4,784	\$ 6	0.9%
<i>Parkland Dedication</i>	\$ 1,690,000	\$ 7,222	\$ 9	1.4%
<i>Consultants</i>	\$ 400,000	\$ 1,709	\$ 2	0.3%
<i>Other Soft Costs</i>	\$ 1,631,441	\$ 6,972	\$ 9	1.4%
<i>Soft Cost Contingency</i>	\$ 1,038,157	\$ 4,437	\$ 6	0.9%
Soft Costs	\$ 12,910,996	\$ 55,175	\$ 70	10.7%
<i>Construction Loan Interest</i>	\$ 7,000,000	\$ 29,915	\$ 38	5.8%
<i>Construction Loan Fee</i>	\$ 795,550	\$ 3,400	\$ 4	0.7%
Total Project Costs	\$ 110,388,158	\$ 471,744	\$ 599	91.8%
Potential Project Profit	\$ 9,913,959	\$ 42,367	\$ 65	8.2%

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Financing Program:

The Financing Program is to be as follows:

	Total	Per Unit	P.S.F.	% of Costs
MCAP Construction Loan	\$ 79,555,000	\$ 339,979	\$ 523	72.07%
Purchaser Deposits	\$ 17,271,939	\$ 73,812	\$ 113	15.65%
Deferred Costs	\$ 4,531,833	\$ 19,367	\$ 30	4.11%
Appraisal Surplus	\$ 9,029,386	\$ 38,587	\$ 59	8.18%
Total Source of Funds	\$ 110,388,158	\$ 471,744	\$ 725	100.00%

Notes:

- Purchaser Deposits are as reported by the Borrower for the 212 unit presales achieved to date.
- Deferred Costs are as follows:

	Total
Construction Deferred Costs	\$ 1,750,000
Deficiencies	\$ 117,000
Fully Deferred	\$ 1,867,000
Closing Legals	\$ 245,700
Partial Sales Commissions	\$ 2,419,133
Deferred Until Unit Closings	\$ 2,664,833
Deferred Costs	\$ 4,531,833

Fully Deferred costs will be deferred until after full loan repayment. "Construction Deferred Costs" includes the following:

Building Area Landscaping:	\$ 250,000
Park Area Landscaping:	\$1,500,000
Total:	\$1,750,000

Costs "Deferred Until Unit Closings" will be paid in the amount of \$11,388 on each unit closing.

Reporting Requirements:

The Borrower and/or Guarantor shall provide to the Lender:

- Within 90 days of each fiscal year end during the term of the Loan Facility, accountant prepared financial statements for the Borrower and each corporate Guarantor;
- Updated financial statements and/or net worth statements annually for each personal Guarantor;
- Sales Reports by the 15th of each month in form and content satisfactory to the Lender, including copies of accepted sales agreements. Any sales at lower than the agreed upon minimum prices must be approved by the Lender. Additions/Deletions and amendments from the previous month are to be highlighted; and
- Such other financial and supporting information as the Lender may request.

Subsequent Financing:

With the exception of a subordinate charge in an amount to be determined and in favour of the deposit insurer, no financing subsequent to the Loan Facility shall be permitted, without the prior written consent of the Lender. The Borrower shall disclose to the Lender all existing or proposed financing related to the Project and shall not pledge or otherwise encumber its interest in the Project to any party other than the Lender, without the prior written consent of the Lender. The Borrower will provide evidence, satisfactory to the Lender, as to the source of the Borrower's required equity in the Project.

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Other Conditions:

1. Loan disbursements shall take place only on title to the Project being acceptable to our solicitors and all matters in connection with the Security and other documentation deemed necessary or advisable by our solicitors being complied with by the Borrower and Guarantor and all Security and other instruments and agreements to evidence and secure the Loan Facility are duly executed, with evidence of registration where applicable.
2. The Lender shall require a satisfactory opinion and report from its solicitors indicating, among other things, the validity, enforceability and priority of all Security and the state of title of the Project.
3. The Lender shall require a satisfactory opinion and report from its solicitors regarding any encumbrances, financial charges or claims registered or to be registered against the Project.
4. The Lender shall require evidence of all corporate authorities together with an opinion of the Borrower's counsel as to usual matters such as: corporate authorities, absence of litigation, delivery of security, and execution of all security listed herein.
5. The Commitment and the Security may not be assigned, transferred or otherwise disposed of by the Borrower without the Lender's prior written consent. However, the Commitment and Security or any interest therein may be assigned or participated by the Lender (and its successors and assigns), in whole or in part, without the consent of the Borrower or the Guarantor. Except as hereinafter provided, the Borrower and Guarantor consent to the disclosure by the Lender to any such prospective assignee or participant of all information and documents regarding the Loan Facility, the Project, the Borrower, and the Guarantor within the possession or control of the Lender.
6. All purchasers and contracts of purchase and sale shall be satisfactory to the Lender and shall be for unit prices not less than 100% of the minimum gross unit sale prices set out in Schedule "C".

The Lender must be satisfied that all purchasers and offers to purchase are bona fide and that the purchasers have the capabilities to fulfill their obligation to close. The Lender must be satisfied that, where required, purchasers have firm take-out loan commitments, at fixed rates, for durations sufficient to comply with the Project's timetable for delivery of the completed units. The review of all documentation will be handled as expeditiously as possible by the Lender.
7. MCAP shall have the irrevocable right to erect a sign on the Project, at its own expense, indicating it has provided the financing on the Project during the period for which the financing, or any portion thereof, remains outstanding. MCAP may also refer to this Project in its advertising at any time after the first advance under the Loan Facility.
8. The Borrower shall establish a separate Project account at a financial institution acceptable to the Lender through which all advances and disbursements shall be made in respect to the Project.
9. The Borrower and Guarantor accept full responsibility for remittance and payment of any and all HST due, submission of HST credits or claims, and will provide monthly accounting of same to the Lender's Cost Consultant.
10. In the event of the Borrower selling, transferring or conveying the Project or its rights therein to a purchaser, transferee or grantee not approved by the Lender, at the sole option of the Lender, all monies outstanding, together with all accrued and unpaid interest thereon and any other amounts due under the Commitment or the Security, shall become due and payable.

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11. The voting control of the Borrower shall not change without the prior written consent of the Lender.
12. The Lender will credit to the Borrower interest at the 30 day Banker's Acceptance rate less 1.50% on the Cash Collateral Account(s).
13. All appraisal, engineering, inspection, title, survey, legal, insurance review and other customary underwriting, inspection, securing or enforcement expenses of the Lender, are for the account of and shall be paid by the Borrower and may at the Lender's option be deducted from an advance and the Borrower hereby irrevocably directs and authorizes the Lender to pay such expenses and costs, together with any outstanding balance of the Commitment Fee, or any other amount due to the Lender, from and out of any advance of funds under this Loan Facility, in the event the same have not been paid at the time thereof. The Borrower acknowledges that in the event it does not request construction draws on a regular monthly basis, the Lender may inspect or cause its Cost Consultant to inspect the Project at any time, at the expense of the Borrower.
14. In the event of the Borrower failing to pay any amount when due or being in breach of any covenant, condition or term of the Commitment or the Security, or if any representation made by the Borrower, the Guarantor or their agents, or any information provided by them is found to be untrue or incorrect, or if any Event of Default as defined in the Security occurs, or if in the sole opinion of the Lender, a material adverse change occurs relating to the Borrower, the Guarantor, the Project, or the risk associated with the Loan Facility, the Borrower shall, at the option of the Lender, be in default of its obligations to the Lender and the Lender may cease or delay further funding or may exercise any and/or all remedies available to it at law or in equity. Further, the Lender may, at its option, on notice to the Borrower, declare the principal and interest on the Loan, and any other amount due under the Commitment forthwith due and payable, whereupon the same shall be and become immediately due and payable in full.
15. The waiver by the Lender of any breach or default by the Borrower of any provisions contained herein shall not be construed as a waiver of any other or subsequent breach or default by the Borrower. In addition, any failure by the Lender to exercise any rights or remedies hereunder or under the Security shall not constitute a waiver thereof.
16. The Commitment and Loan Facility shall be governed by and construed under laws of the Province of Ontario.
17. The Borrower and Guarantor agree that if any one or more of the provisions contained in this Commitment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Lender, not affect any or all other provisions of this Commitment and this Commitment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
18. If the Borrower or the Guarantor is comprised of more than one person or corporation, the obligations shall be the joint and several obligations of each such person or corporation comprising the Borrower or Guarantor unless otherwise specifically stated herein.
19. Time is of the essence in this Commitment.

20. The Borrower will substantially complete the Project in accordance with plans and specifications by September 1, 2023 and pay its taxes, protect its properties by contest of adverse claims, maintain required insurance, perform its obligations under contracts and agreements, obtain all necessary approvals for construction and use of the Project, comply with all governmental rules and regulations, permit reasonable inspections, by the Lender and its agents of the Project and all records pertaining to the Project.
21. If at any time during construction the actual costs incurred exceed the costs budgeted and approved by the Lender, the Borrower shall immediately so notify the Lender and if the Lender shall conclude that the aggregate undisbursed balance of the Loan Facility shall be or become insufficient to pay for the completion of construction of the Project and all expenses and charges in connection therewith, the Borrower shall contribute the amount of such excess toward the Project before any further disbursements of the Loan Facility shall be made by the Lender.
22. If a construction lien is filed against the Project or if the Borrower, Guarantor or Lender receives notice that one is about to be filed, then, at the option of the Lender, and in addition to any other remedies it may have, the Lender shall not be required to make any further advance until funds sufficient to cover such construction lien have been deposited with the Lender or until such time as the said lien has been discharged.
23. The Lender shall have a right of first refusal to finance or arrange financing for any subsequent phases of the development, of which the Project forms a part, or any further development to be developed on the lands adjacent thereto and shall be given the first opportunity and a reasonable period of time, after delivery to the Lender of all reasonably requested information, to provide a commitment to fund such further development.
24. The Borrower and Guarantor shall indemnify and save harmless the Lender, its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature whatsoever arising out of the provisions of this Commitment and the Security, any letters of credit or letters of guarantee issued, sale or lease of the Project and/or the use or occupation of the Project including, without limitation, those arising from the right to enter the Project from time to time and to carry out the various tests, inspections and other activities permitted by the Commitment and the Security. In addition to any liability imposed on the Borrower and Guarantor under any instrument evidencing or securing the Loan indebtedness, the Borrower and Guarantor shall be liable for any and all of the Lender's costs, expenses, damages or liabilities, including, without limitation, all reasonable legal fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Project of any hazardous or noxious substances. The representations, warranties, covenants and agreements of the Borrower and Guarantor set forth in this subparagraph:
 - (i) Are separate and distinct obligations from the Borrower's and Guarantor's other obligations;
 - (ii) Survive the payment and satisfaction of their other obligations and the discharge of the Security from time to time taken as security therefore;
 - (iii) Are not discharged or satisfied by foreclosure of the charges created by any of the Security; and
 - (iv) Shall continue in effect after any transfer of the land including, without limitation, transfers pursuant to foreclosure proceedings (whether judicial or non-judicial) or by any transfer in lieu of foreclosure.

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25. The Borrower and Guarantor will provide the usual warranties and representations respecting; accuracy of financial statements and that there has been no material adverse change in either the Borrower's or Guarantor's financial condition or operations, as reflected in the financial statements used to evaluate this credit; title to the Project charged by the Security; power and authority to execute and deliver documents; accuracy of documents delivered and representations made to Lender; no pending adverse claims; no outstanding judgments; no defaults under other agreements relating to the Project; preservation of assets; no undefended material actions, suits or proceedings; payment of all taxes; no consents, approvals or authorizations necessary in connection with documentation; compliance of construction of Project with all laws; no other charges against mortgaged lands except permitted encumbrances; all necessary services available to the Project; no hazardous substances used, stored, discharged or present on the mortgaged lands and will warrant such other reasonable matters as Lender or its legal counsel may require.
26. This Commitment and all schedules attached hereto which form part of this Commitment, when accepted by the Borrower and Guarantors, in accordance with the acceptance provisions hereof, constitutes the entire agreement and understanding between the parties hereto with respect to the Loan and supersedes all other agreements, understandings or commitments, verbal or written. The Lender has entered into this Commitment in reliance on the accuracy of any information previously supplied by or on behalf of the Borrower. Any approval or consent by or from the lender that is contemplated herein shall be effective only if expressly given pursuant hereto; the delivery or receipt of documents shall not be deemed to constitute any such approval or consent.
27. Any purchaser deposits utilized by the Borrower, in addition to the presale deposits being used as equity, in payment of budgeted and approved Project development costs will be "netted" off the approved loan amount. Any cost reductions/savings will be applied to the Contingency component of the budget and releasable only on the recommendation of the Lender's cost consultant. Any and all cost overruns and/or approved extras in excess of the total budget will be the sole responsibility of the Borrower and must be contributed by the Borrower as additional project equity at the time incurred unless otherwise agreed to by MCAP and confirmed to the Borrower in writing.
28. The Lender's solicitor shall be:
- Garfinkle Biderman LLP
1 Adelaide Street East
Suite 801
Toronto, Ontario
M5C 2V9
- Attention: Avrom Brown**
29. The Lender's cost consultants shall be:
- CB Ross Partners
1920 Yonge Street
Suite 501
Toronto, Ontario
M4S 3E2
- Attention: Charlie Ross**
- The terms of reference for the cost consultant will be as detailed in Schedule "B".

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30. The representations, warranties, covenants and obligations herein set out shall not merge or be extinguished by the execution or registration of the Security but shall survive until all obligations under this Commitment and the Security have been duly performed and the Loan Facility, interest thereon and any other moneys payable to the Lender are repaid in full. In the event of any inconsistency or conflict between any of the provisions of the Commitment and any provision or provisions of the Security, the provisions of the Security will prevail.
31. No term or requirement of this Commitment may be waived or varied orally or by any course of conduct of the Borrower or anyone acting on his behalf or by any officer, employee or agent of the Lender. Any alteration or amendment to this Commitment must be in writing and signed by a duly authorized officer of the Lender and accepted by the Borrower and Guarantor.
32. The Borrower and Guarantor acknowledge and agree that the terms and conditions recited herein are confidential between themselves and the Lender, its Lawyer, Cost Consultant, Insurance Consultant and Project Monitor. The Borrower and Guarantor agree not to disclose the information contained herein to a third party, other than their lawyer, without the Lender's prior written consent.
33. The Lender will require a satisfactory Letter of Transmittal regarding all professional reports including, without limiting, the environmental report. A Transmittal Letter is to be issued for each report, addressed to MCAP Financial Corporation and state that the report can be relied upon by the Lender, and its assigns, for mortgage financing purposes.
34. Prior to the advancement of funds, the lender is to receive Identification Verification which is satisfactory to the Lender and its Counsel from each Guarantor, Mortgagor, and where applicable, signing officers for each corporation or other legal entity entering into the borrowing and guarantee arrangement.
35. By executing this Commitment, the Borrower and Guarantor certify that all of the beneficial owners of the Project or Property have been disclosed to the Lender.

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Privacy Act Consent:

By signing this Commitment, each of you, being the parties signing (including all mortgagors and all guarantors) agrees that MCAP is authorized and entitled to:

- a) Use your Personal Information (as hereinafter defined) to assess your ability to obtain your loan and to evaluate your ability to meet your financial obligations. This use includes disclosing and exchanging your Personal Information on an on-going basis with credit bureaus, credit reporting agencies and financial institutions or their agents, or to service providers, in order to determine and verify, on an on-going basis, your continuing eligibility for your loan and your continuing ability to meet your financial obligations. This use, disclosure and exchange of your Personal Information will continue as long as your loan is outstanding, and will help protect you from fraud and will also protect the integrity of the credit-granting system;
- b) If the security for your loan includes an insured mortgage, to disclose your Personal Information to the mortgage insurer and to exchange, on an on-going basis, your Personal Information with such mortgage insurer, for all purposes related to the provision of mortgage insurance; and;
- c) Use, disclose and exchange, on an on-going basis, all the personal information collected by us or delivered by you to us from time to time in connection with your loan and any information obtained by us from time to time pursuant to paragraphs (a) and (b) above (collectively your "Personal Information") to other organizations (including members of the MCAP Group) which may fund all or any part of your loan and/or own all or any part of your loan and the security securing your loan from time to time and permit prospective investors in your loan to inspect your Personal Information. For your protection, Personal Information in the possession of other organizations as provided for herein is subject to their: (i) compliance with applicable law; and (ii) compliance with their own privacy codes, rules and regulations if and to the extent applicable. In some instances, such organizations or their applicable service providers may be located in jurisdictions outside of Canada, and your Personal Information may be subject to the laws of those foreign jurisdictions. To find out more about our privacy policy or to obtain information about our privacy practices, send a written request to MCAP Privacy Officer, Suite 400, 200 King Street West, Toronto, Ontario, M5H 3T4.

Even though your loan and the security securing your loan may be funded or owned by one or more other organizations, MCAP or a member of the MCAP Group will continue to service your loan.

If you are in agreement with the foregoing terms and conditions, please indicate by signing and returning one (1) copy of this Commitment to the Lender's office within 10 business days from the date of this Commitment, together with your cheque in the amount of \$100,000 representing a portion of the Commitment Fee due and payable, failing which this letter shall be deemed null and void.

Yours truly,

MCAP FINANCIAL CORPORATION



James Tobias
 Senior Director



Bruno Iacovetta
 Managing Director



Mario Policchio
 Advisor

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Borrower and Guarantor hereby accepts the terms and conditions of the above-mentioned Commitment, agree to be responsible for all fees and disbursements payable in accordance with provisions of this Commitment and authorize the credit checks contemplated herein.

ACCEPTANCE

I/WE HEREBY accept the terms and conditions as stated herein. By signing this Commitment Letter, Borrower acknowledges that this loan is solely for its own benefit, and not for the benefit of any third party, except as specifically disclosed herein.

DATED AT Mississauga, this 8th day of June, 2020.

Vandyk-Backyard Kings Mill Limited

[Signature]
Per: Richard Ma
I have the authority to bind the corporation

Per:
I have the authority to bind the corporation

Vandyk-Backyard HumberSide Limited

[Signature]
Per: Richard Ma
I have the authority to bind the corporation

Per:
I have the authority to bind the corporation

[Signature]
Witness Karen Guitar

[Signature]
John Vandyk

**SCHEDULE "A":
INSURANCE REQUIREMENTS**

1. GENERAL

- a. All insurance policies referred to herein shall be in form and with insurers reasonably acceptable to Lender and contain the original signatures of the insurers, not just the insurance broker or agent, unless otherwise agreed, and shall be delivered to the Lender within 30 days of issuance of the insurance cover note or binder.
- b. All policies shall be permitted to contain reasonable deductibles.
- c. The Builder's Risk Insurance and the Wrap Up policy where applicable shall contain a Standard Mortgage Clause and show the lender as Mortgagee and Loss Payee and shall provide for sixty days (60) prior notice to Lender of any adverse material change or cancellation.
- d. If the Borrower fails to take out and keep in force such minimum insurance as is required hereunder, then Lender may, but shall not be obligated to, take out and keep in force such insurance at the immediate sole cost and expense of the Borrower plus costs incurred, or use other means at its disposal under the terms of the Mortgage.
- e. It is clearly understood and agreed that the Insurance Requirements contained herein are a minimum guide and, although must be adhered to throughout the life of the Mortgage, in no way represent an opinion as to the full scope of insurance cover a prudent Borrower would arrange to adequately protect its interest and the interest of Lender, and the Borrower must govern itself accordingly.

2. GENERAL LIABILITY

- a. Evidence of a Comprehensive General Liability Insurance policy for the Project in the minimum amount noted in the Security section of the Commitment Letter.
- b. The Commercial General Liability Policy must reference the project and MCAP is to be added as an additional insured.

3. COURSE OF CONSTRUCTION

The following policies of insurance must be submitted upon the commencement of construction:

- a. All Risks Builders Course of Construction including flood on:
 - i) One hundred percent (100%) of the estimated final construction cost of the property, including 25% of variable soft costs, not to be less than the minimum amount noted in the Security section of the Commitment Letter.
- b. If the construction cost of the Project is in excess of \$10,000,000, then a "Wrap-Up Liability" policy is required with a limit of not less than \$10,000,000 and must include all contractors, subcontractors and trades. This requirement may be reconsidered on recommendation of insurance consultant, subject to evidence of satisfactory commercial general liability insurance held by sub-contractors.
- c. Insurance coverage shall be converted to all perils coverage satisfactory to the Lender and appropriate to the Project following completion of construction

4. PROCEEDS OF INSURANCE AND EXPROPRIATION

All proceeds of expropriation or of insurance from insurance policies, other than liability insurance, shall be paid to the Lender directly and at the option of the Lender, may either be applied on account of the Loan, whether or not the same may be due and payable, and interest thereon and any other sums payable in respect thereof, or held by it as part of the Lender's security and, so long as the Borrower is not in default hereunder or under any Security, may be subject to withdrawal by the Borrower in instalments, on a cost to complete basis, as the repair or replacement progresses, subject to the Lender's receipt of appropriate certificates, opinions and other documents which may include, without limitation, cost consultant report, proof of payments, as required by it and the Lender's counsel.

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**SCHEDULE "B":
TERMS OF REFERENCE**

1. Review, in preparation of the preliminary report:
 - a.) The project plans and specifications
 - for completeness and consistency with the project description received from the lender in context of budget preparation.
 - b.) General contract and head contract entered into by the borrower
 - for completeness and consistency with the project description received from the lender.
 - to determine any contract exclusions which may require project budget adjustments.
 - c.) Soil Test and Environmental Audits
 - to understand how the analysis and recommendations therein will impact the project construction.
 - to monitor any recommendations to deal with any problems identified therein.
 - to ascertain that any recommendations therein appear to be incorporated into the plans and specifications.
2. Verify with the borrower and from a review of the head contracts whether any title retention is to exist on any personal property being supplied to the project and recommend such steps desirable to be taken by the lender in consultation with legal counsel to ensure that its security is maintained.
3. Review the borrower's construction time schedule in the context of the project plans and specifications, general contract and head contracts with a view to determining that it is realistic.
4. Review all material cost items which are or ought to be included in the project budget with a view to determining that such allowances are reasonable, adequate and complete.
5. Review the borrower's proposed budget and cash flow projections and suggest revisions thereto that may appear necessary after consultation with the lender.
6. Review all change orders supplied to us in respect of contract work to ensure the adequacy of the scope and cost of such change and provide any suitable recommendations to the lender. Monitor the approved budgets and cash flows for adjustments to reflect change orders approved by the lender.
7. Review insurance certificates to ensure that the sum insured, insured parties, loss payable and period of coverage is appropriate. (This does not include a detailed review of the policies themselves.)
8. Review such documents and data as is made available to us in the course of reviewing the project budget with a view to ensuring to the fullest reasonable extent the adequacy of such budget, including but not restricted to:
 - a.) Building permits.
 - b.) Land purchase agreements.
 - c.) The lender's commitment agreement.
 - d.) Development and other municipal and regional agreements.
 - e.) Consultants' studies and reports integral to draft plan approval and subdivision approvals.
 - f.) Condominium documents.
 - g.) Management agreements.
 - h.) Limited partnership agreements (if applicable).
 - i.) Consultants' agreements including design, sales, marketing, management and legal

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9. Prepare initial report (the "Preliminary Report") to the lender on:
- a.) The project budget as revised by the borrower and approved by the lender in response to the project monitor's recommendations.
 - b.) The construction budget - based on a detailed construction estimate (prepared by cost consultant) in the case of a construction management project or non-arm's length general contract, and based on a fixed price contract reviewed by the project monitor in the case of a conventional general contract.
 - c.) The construction time schedule and projected cash flow, each as revised by the borrower and approved by the lender in response to the project monitor's recommendations.
 - d.) Any potential problem areas which have been identified and which may affect completion of the project in accordance with the project budget and the construction time schedule.
 - e.) Recommendations on such other matters as may have become evident during discussions with the borrower, the architects, engineers (and other consultants) involved in the project, or which may have become evident during the course of our review and inquiries.
 - f.) Identify those documents listed in the attached schedule which we have not been provided copies of for review.
10. During construction of the project submit monthly status reports to the lender incorporating the following:
- a.) A report showing the cost of work completed to date, the amount of holdbacks for contracts, the value of any change orders and the current estimate of the cost to complete the project. The certificate will segregate construction costs from soft costs and its appendices will identify the contractors on the project and quantify the amounts of holdbacks in respect of their contract retained and release from time to time pursuant to the Construction Lien Act. The certificate will be premised upon a borrower's certificate that the monies advanced by the lender have been used on the project and that all bills have been paid. The certificate shall also confirm the amount of each draw requested by the borrower based on information made available to the project monitor.
 - b.) A list of approved cheques to be issued by the borrower in the following month in payment of project payables, if required by the lender. Cancelled cheque review for previous month's payables to be provided.
 - c.) Identification of apparent or identified potential problem areas relating to the project which might affect its completion within the project budget and the project construction schedule, along with recommendations for budget and schedule revisions.
 - d.) Update the projected cash flow from time to time as discussed and directed by the lender to ensure project expenditures are in line with original projections.
 - e.) Confirmation that:
 - (i) architect's certificates, and where appropriate, engineer's or other consultants' certificates, have been issued certifying:
 - that construction is being performed in accordance with the plans and specifications;
 - that construction has been completed in a good, workmanlike manner, that the plans and specifications and construction comply with all applicable zoning and building laws and ordinances;
 - that all required certificates, rules and permits of governmental authorities have been issued and are in force.
 - (ii) to the best of the design consultant's knowledge all the materials and fixtures customarily furnished and installed at the current stage of construction have been furnished and installed.
 - (iii) identified deficiencies are being attended to.
11. Such other services as the project monitor may be directed to perform from time to time by the Borrower or the bank.

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**SCHEDULE "C":
 MINIMUM SELLING PRICES**

Suite	Status	Size	Type	Gross Unit Sale Price	Parking Price	Parking (One or Nil)	Locker Price	Locker (One or Nil)	Total Price
101	F	586	1 Bed + Den	\$475,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$505,990
102	F	586	1 Bed + Den	\$475,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$505,990
103	F	584	1 Bed + Den	\$465,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$495,990
105	F	586	1 Bed + Den	\$428,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$458,990
106	F	586	1 Bed + Den	\$435,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$465,990
107	F	586	1 Bed + Den	\$439,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$469,990
108	F	508	1 Bed	\$439,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$469,990
109	F	857	2 Bed + Den	\$579,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$609,990
110	F	586	1 Bed + Den	\$468,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$498,990
111	F	554	1 Bed + Den	\$448,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$478,990
112	F	586	1 Bed + Den	\$478,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$508,990
113	F	586	1 Bed + Den	\$489,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$519,990
114	F	593	1 Bed + Media	\$468,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$498,990
115	F	492	1 Bed	\$429,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$459,990
116	F	571	1 Bed + Den	\$468,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$498,990
201	F	403	Studio	\$376,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$406,990
202	F	586	1 Bed + Den	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
203	F	586	1 Bed + Den	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
204	F	584	1 Bed + Den	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
205	M	518	1 Bed	\$457,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$457,990
206	F	893	2 Bed + Den	\$629,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$659,990
207	F	741	2 Bed	\$537,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$567,990
208	F	594	1 Bed + Media	\$461,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$491,990
209	F	670	2 Bed	\$498,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$498,990
210	F	586	1 Bed + Den	\$454,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$484,990
211	F	554	1 Bed + Den	\$434,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$464,990
212	F	571	1 Bed + Den	\$439,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$469,990
213	F	586	1 Bed + Den	\$524,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$554,990
214	F	586	1 Bed + Den	\$441,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$441,990
215	F	586	1 Bed + Den	\$441,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$471,990
216	F	586	1 Bed + Den	\$441,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$471,990
217	CH	508	1 Bed	\$404,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$404,990
218	F	747	2 Bed	\$537,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$567,990
219	F	862	3 Bed	\$667,990	\$49,000.00	1 (ONE)	Free	1 (ONE)	\$716,990
220	F	586	1 Bed + Den	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
221	F	554	1 Bed + Den	\$454,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$484,990
222	F	586	1 Bed + Den	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
223	F	586	1 Bed + Den	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
224	F	670	2 Bed	\$523,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$553,990
225	F	462	1 Bed	\$434,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$464,990
226	F	586	1 Bed + Den	\$464,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$494,990
227	F	571	1 Bed + Den	\$444,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$474,990
228	F	586	1 Bed + Den	\$464,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$494,990
229	F	515	1 Bed	\$394,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$394,990
301	F	403	Studio	\$403,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$433,990
302	F	586	1 Bed + Den	\$498,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$528,990
303	F	586	1 Bed + Den	\$518,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$548,990
304	F	584	1 Bed + Den	\$460,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$490,990
305	F	518	1 Bed	\$440,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$470,990
306	F	893	2 Bed + Den	\$655,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$685,990
307	F	741	2 Bed	\$543,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$573,990
308	F	594	1 Bed + Media	\$467,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$497,990
309	F	670	2 Bed	\$504,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$534,990
310	F	586	1 Bed + Den	\$463,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$493,990
311	F	554	1 Bed + Den	\$440,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$470,990
312	M	571	1 Bed + Den	\$482,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$482,990
313	F	586	1 Bed + Den	\$460,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$490,990
314	F	586	1 Bed + Den	\$447,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$477,990
315	F	586	1 Bed + Den	\$447,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$477,990
316	F	586	1 Bed + Den	\$447,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$477,990

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Suite	Status	Size	Type	Gross Unit Sale Price	Parking Price	Parking (One or Nil)	Locker Price	Locker (One or Nil)	Total Price
317	F	508	1 Bed	\$410,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$440,990
318	F	747	2 Bed	\$543,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$573,990
319	F	862	3 Bed	\$673,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$703,990
320	F	586	1 Bed + Den	\$480,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$510,990
321	F	554	1 Bed + Den	\$460,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$460,990
322	F	586	1 Bed + Den	\$480,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$510,990
323	F	586	1 Bed + Den	\$480,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$510,990
324	F	670	2 Bed	\$529,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$559,990
325	F	594	1 Bed + Media	\$464,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$494,990
326	F	462	1 Bed	\$420,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$450,990
327	F	586	1 Bed + Den	\$472,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$502,990
328	F	571	1 Bed + Den	\$450,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$480,990
329	F	586	1 Bed + Den	\$460,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$490,990
330	F	515	1 Bed	\$400,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$430,990
401	F	403	Studio	\$356,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$386,990
402	F	586	1 Bed + Den	\$484,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$514,990
403	F	586	1 Bed + Den	\$484,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$514,990
404	F	584	1 Bed + Den	\$464,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$494,990
405	F	518	1 Bed	\$444,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$474,990
406	F	893	2 Bed + Den	\$639,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$669,990
407	F	741	2 Bed	\$547,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$577,990
408	M	594	1 Bed + Media	\$489,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$489,990
409	F	670	2 Bed	\$508,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$508,990
410	F	586	1 Bed + Den	\$464,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$494,990
411	F	554	1 Bed + Den	\$444,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$474,990
412	F	571	1 Bed + Den	\$449,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$479,990
413	F	586	1 Bed + Den	\$487,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$517,990
414	F	586	1 Bed + Den	\$451,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$481,990
415	F	586	1 Bed + Den	\$451,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$481,990
416	CH	586	1 Bed + Den	\$451,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$451,990
417	F	508	1 Bed	\$414,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$444,990
418	F	747	2 Bed	\$547,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$577,990
419	F	862	3 Bed	\$671,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$701,990
420	F	586	1 Bed + Den	\$484,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$514,990
421	F	554	1 Bed + Den	\$464,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$494,990
422	F	586	1 Bed + Den	\$484,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$514,990
423	F	586	1 Bed + Den	\$484,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$514,990
424	F	670	2 Bed	\$533,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$563,990
425	F	594	1 Bed + Media	\$468,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$498,990
426	F	462	1 Bed	\$424,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$454,990
427	F	586	1 Bed + Den	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
428	F	571	1 Bed + Den	\$454,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$454,990
429	F	586	1 Bed + Den	\$464,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$494,990
430	F	515	1 Bed	\$404,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$434,990
501	F	403	Studio	\$359,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$389,990
502	F	586	1 Bed + Den	\$493,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$523,990
503	F	586	1 Bed + Den	\$487,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$517,990
504	F	584	1 Bed + Den	\$467,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$497,990
505	F	518	1 Bed	\$447,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$477,990
506	F	893	2 Bed + Den	\$642,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$672,990
507	F	741	2 Bed	\$550,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$580,990
508	F	594	1 Bed + Media	\$474,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$504,990
509	CH	670	2 Bed	\$511,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$511,990
510	F	586	1 Bed + Den	\$467,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$497,990
511	F	554	1 Bed + Den	\$447,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$477,990
512	F	571	1 Bed + Den	\$452,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$482,990
513	F	586	1 Bed + Den	\$467,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$497,990
514	F	586	1 Bed + Den	\$454,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$484,990
515	F	586	1 Bed + Den	\$454,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$484,990
516	F	586	1 Bed + Den	\$454,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$484,990

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Suite	Status	Size	Type	Gross Unit Sale Price	Parking Price	Parking (One or Nil)	Locker Price	Locker (One or Nil)	Total Price
517	F	508	1 Bed	\$427,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$457,990
518	F	747	2 Bed	\$550,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$580,990
519	F	862	3 Bed	\$694,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$724,990
520	F	586	1 Bed + Den	\$519,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$549,990
521	F	554	1 Bed + Den	\$487,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$517,990
522	C	586	1 Bed + Den	\$559,900	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$589,900
523	M	586	1 Bed + Den	\$524,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$529,990
524	F	670	2 Bed	\$556,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$586,990
525	F	594	1 Bed + Media	\$471,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$501,990
526	M	462	1 Bed	\$442,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$442,990
527	F	586	1 Bed + Den	\$477,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$507,990
528	F	571	1 Bed + Den	\$457,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$487,990
529	F	586	1 Bed + Den	\$467,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$497,990
530	F	515	1 Bed	\$407,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$437,990
601	F	403	Studio	\$367,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$367,990
602	F	586	1 Bed + Den	\$510,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$540,990
603	F	586	1 Bed + Den	\$490,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$520,990
604	F	584	1 Bed + Den	\$470,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$500,990
605	F	518	1 Bed	\$450,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$480,990
606	F	893	2 Bed + Den	\$645,990	\$49,000.00	1 (ONE)	Free	1 (ONE)	\$694,990
607	F	741	2 Bed	\$553,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$583,990
608	F	594	1 Bed + Media	\$477,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$507,990
609	F	670	2 Bed	\$514,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$514,990
610	F	586	1 Bed + Den	\$472,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$502,990
611	F	554	1 Bed + Den	\$450,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$480,990
612	F	571	1 Bed + Den	\$455,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$485,990
613	F	586	1 Bed + Den	\$470,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$500,990
614	F	586	1 Bed + Den	\$457,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$487,990
615	F	586	1 Bed + Den	\$457,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$487,990
616	F	586	1 Bed + Den	\$457,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$487,990
617	F	508	1 Bed	\$430,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$460,990
618	F	747	2 Bed	\$553,990	\$49,000.00	1 (ONE)	Free	1 (ONE)	\$602,990
619	F	862	3 Bed	\$697,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$727,990
620	M	586	1 Bed + Den	\$510,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$510,990
621	F	554	1 Bed + Den	\$490,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$520,990
622	F	586	1 Bed + Den	\$510,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$540,990
623	F	586	1 Bed + Den	\$512,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$542,990
624	F	670	2 Bed	\$559,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$589,990
625	M	594	1 Bed + Media	\$489,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$489,990
626	M	462	1 Bed	\$468,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$468,990
627	F	586	1 Bed + Den	\$480,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$510,990
628	M	571	1 Bed + Den	\$490,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$490,990
629	F	586	1 Bed + Den	\$470,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$500,990
630	F	515	1 Bed	\$410,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$440,990
701	F	403	Studio	\$367,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$367,990
702	F	520	1 Bed	\$490,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$520,990
703	F	799	2 Bed	\$592,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$622,990
704	F	971	3 Bed	\$719,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$749,990
705	F	893	2 Bed + Den	\$674,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$704,990
706	F	1,056	3 Bed + Den	\$738,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$768,990
707	F	670	2 Bed	\$519,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$549,990
708	F	586	1 Bed + Den	\$475,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$505,990
709	F	554	1 Bed + Den	\$455,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$485,990
710	CH	571	1 Bed + Den	\$460,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$460,990
711	F	586	1 Bed + Den	\$475,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$475,990
712	F	586	1 Bed + Den	\$462,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$492,990
713	F	586	1 Bed + Den	\$462,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$492,990
714	M	586	1 Bed + Den	\$482,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$482,990
715	F	508	1 Bed	\$455,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$485,990
716	F	747	2 Bed	\$589,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$619,990

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Suite	Status	Size	Type	Gross Unit Sale Price	Parking Price	Parking (One or Nil)	Locker Price	Locker (One or Nil)	Total Price
717	M	797	3 Bed	\$690,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$690,990
718	F	799	2 Bed	\$621,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$651,990
719	F	732	2 Bed	\$603,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$633,990
720	F	945	3 Bed	\$769,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$799,990
721	F	820	2 Bed	\$659,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$689,990
722	F	748	2 Bed	\$562,990	\$40,000.00	2 (TWO)	Free	1 (ONE)	\$642,990
723	F	799	2 Bed	\$572,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$602,990
724	F	461	1 Bed	\$407,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$407,990
801	CH	403	Studio	\$370,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$370,990
802	M	520	1 Bed	\$498,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$498,990
803	F	1,039	3 Bed + Den	\$749,990	\$35,000.00	2 (TWO)	\$2,500.00	2 (TWO)	\$824,990
804	F	1,037	3 Bed + Den	\$749,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$779,990
805	F	586	1 Bed + Den	\$528,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$558,990
806	F	1,056	3 Bed + Den	\$754,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$784,990
807	F	670	2 Bed	\$522,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$552,990
808	F	586	1 Bed + Den	\$478,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$508,990
809	F	554	1 Bed + Den	\$458,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$488,990
810	F	571	1 Bed + Den	\$463,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$493,990
811	F	586	1 Bed + Den	\$478,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$508,990
812	F	586	1 Bed + Den	\$465,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$495,990
813	F	893	2 Bed + Den	\$635,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$665,990
814	F	786	2 Bed	\$579,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$609,990
815	F	747	2 Bed	\$569,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$599,990
816	F	797	3 Bed	\$680,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$710,990
817	F	799	2 Bed	\$611,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$641,990
818	F	732	2 Bed	\$586,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$616,990
819	F	945	3 Bed	\$769,990	\$35,000.00	2 (TWO)	Free	1 (ONE)	\$839,990
820	F	820	2 Bed	\$649,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$679,990
821	F	748	2 Bed	\$589,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$619,990
822	F	799	2 Bed	\$649,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$679,990
823	F	461	1 Bed	\$410,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$410,990
901	F	921	2 Bed + Den	\$660,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$690,990
902	F	1,039	3 Bed + Den	\$739,990	\$49,000.00	1 (ONE)	Free	1 (ONE)	\$788,990
903	F	1,037	3 Bed + Den	\$739,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$769,990
904	F	586	1 Bed + Den	\$501,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$531,990
905	M	1,056	3 Bed + Den	\$762,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$762,990
906	F	975	3 Bed + Den	\$704,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$734,990
907	M	833	2 Bed + Den	\$719,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$719,990
908	F	848	2 Bed + Den	\$638,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$668,990
909	F	762	2 Bed	\$582,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$612,990
910	F	762	2 Bed	\$582,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$612,990
911	F	786	2 Bed	\$576,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$606,990
912	F	747	2 Bed	\$577,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$607,990
1001	M	921	2 Bed + Den	\$699,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$699,990
1002	F	1,039	3 Bed + Den	\$799,990	\$49,000.00	1 (ONE)	Free	1 (ONE)	\$848,990
1003	F	972	3 Bed + Den	\$744,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$774,990
1004	F	916	3 Bed	\$690,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$720,990
1005	CH	868	2 Bed + Den	\$680,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$680,990
1006	F	1,002	3 Bed + Den	\$799,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$829,990
1007	F	783	2 Bed	\$598,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$628,990
1008	F	762	2 Bed	\$582,990	\$49,000.00	1 (ONE)	Free	1 (ONE)	\$631,990
1009	F	762	2 Bed	\$592,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$622,990
1010	F	786	2 Bed	\$571,990	\$30,000.00	1 (ONE)	Free	1 (ONE)	\$601,990
1011	CH	1,170	3 Bed + Den	\$796,990	\$0.00	0 (NIL)	Free	1 (ONE)	\$796,990

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**SCHEDULE "D":
 PERSONAL NET WORTH STATEMENT**

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PERSONAL & EMPLOYMENT INFORMATION

First Name: _____ Last Name: _____ Telephone (home): _____ SIN (required): _____ Driver's License: _____ Are you currently a client of MCAP Financial Corporation? Current Address: _____ _____ _____	Spouse's Name: _____ Marital Status: _____ Telephone (work): _____ Date of Birth: _____ # of dependents: _____ Length of time at current address: _____
Employer's Name: _____ Address: _____ _____ Annual Employment Income: \$ _____ Income from other sources (specify): \$ _____ Total Annual Income (state year of reference) \$ _____ Bank Reference: Address: _____ _____	Present Position: _____ Length of Service: _____ Details: _____ _____

SUMMARY ~ FINANCIAL INFORMATION

	ASSETS	VALUE	LIABILITIES	Description	BALANCE OWING
CASH, DEPOSITS & MARKETABLE SECURITIES	BANK/TRUST CR/UNION	\$	OUTSTANDING LOANS	Refer to section D	\$
REAL ESTATE	Must agree with section "B"	\$	MARGIN ACCOUNTS	Refer to section A	\$
EQUITY IN NON-ARMS LENGTH COMPANIES	Must agree with section C	\$	OUTSTANDING MORTGAGES	Refer to section D	\$
INVESTMENTS (Specify)		\$	OTHER LIABILITIES (itemize)		\$
OTHER ASSETS (itemize)					
TOTAL ASSETS		\$	TOTAL LIABILITIES		\$
			NET WORTH		\$

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(Supporting Schedules)

ASSETS

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SECTION "A" ~ SECURITIES AND TAX SHELTERS

Description of Security and Quantity Held	Registered to/ To whom pledged	Market Value	Cost	Margin Accts Balance Owing	Annual Profit or Loss
1		\$		\$	\$
2		\$		\$	\$
3		\$		\$	\$
4		\$		\$	\$
TOTAL		\$		\$	\$

SECTION "B" ~ REAL ESTATE

Address and Description (Acreage, Home, Business)	Title in Name of	Date Purchased	Market Value	Purchase Price	% Owned
1			\$ -		0%
2			\$ -		0%
3			\$ -		0%
4			\$ -		0%
5			\$ -		0%
6			\$ -		0%
TOTAL			\$		

SECTION "C" ~ EQUITY IN NON ARMS-LENGTH COMPANIES

Name of Company	Nature of Business	Position / Relationship	Value of Equity Invested	% Ownership
1			\$	0%
2			\$	0%
3			\$	0%
4			\$	0%
5			\$	0%
6			\$	0%
NOTE: ATTACH FINANCIAL STATEMENTS			TOTAL	\$

LIABILITIES

SECTION "D" ~ SECURITY

Lender Name	Security	Amount	Terms & Rate	Outstanding Balance
1				\$
2				\$
3				\$
4				\$
5				\$
6				\$
TOTAL				\$

I warrant and confirm that the information given herein is true and I understand clearly that it is being used to determine my credit responsibility. You are authorized to obtain any information you require relative to this application from any sources to which you may apply and each such source is hereby authorized to provide you with such information. You are furthermore authorized to disclose any response to direct inquiries from any other lender or credit bureau, such information on my loaning account as you consider appropriate, and I hereby agree to indemnify you against and save you harmless from any and all claims in damages or otherwise arising from such disclosure on your part. You are also authorized to retain the application whether or not the relative mortgage is approved

Dated this _____ day of _____, _____ Signature (in ink) _____

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**SCHEDULE "E":
FORM OF RELIANCE CERTIFICATE**

TO: MCAP Financial Corporation, [specifically name other addresses] and such persons for whom they act as agent or trustee from time to time, and in each case, their respective successors and assigns

RE: [Describe agreement in respect of which reliance is being permitted] dated [insert date], prepared by [insert name of consultant] and addressed to [name addresses of report] (the "Report")

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby certifies, agrees and confirms that the addressees hereof, and their respective successors and assigns, shall be entitled to rely on the Report to the same extent and with such effect as if such Report were prepared for and addressed to them.

DATED the ____ day of _____, 2020.

By: _____
Name:
Title:

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 Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

April 28, 2020

**SCHEDULE "F":
 CORPORATE BUSINESS IDENTIFICATION VERIFICATION & ATTESTATION FORM**



Corporate Business Identification Verification & Attestation Form ("IVF")

Project Name	Property Address	Mortgage Number

Purpose of Loan (check all applicable)

<input type="checkbox"/> Land Loan	<input type="checkbox"/> Freehold Residential Construction Loan	<input type="checkbox"/> Equity/Mezzanine Financing
<input type="checkbox"/> Land Development Loan	<input type="checkbox"/> Commercial Construction Loan	
<input type="checkbox"/> Condominium Construction Loan	<input type="checkbox"/> Residential Inventory Loan	
<input type="checkbox"/> Industrial Property Term Loan	<input type="checkbox"/> Multi-Unit Residential Term Loan	<input type="checkbox"/> Other (describe on separate sheet and attach to this form)
<input type="checkbox"/> Commercial Term Loan	<input type="checkbox"/> Conventional Loan	
<input type="checkbox"/> Insured Loan		

In order for this loan/mortgage to be considered for approval, the Borrower(s) and Beneficial Owner(s) must complete and return their IVFs & any applicable IVF - Appendix "A"s (Politically Exposed Persons - PEP) to MCAP Financial Corporation, together with all available supporting documentation. Prior to any advance of funds, MCAP must receive the completed IVF Schedule "1" and all remaining supporting documentation. The completed IVFs, IVF - Appendix "A"s, IVF-Schedule "1" and supporting documentation is required for MCAP, any third party that may fund any part of the loan/mortgage and any servicer of the loan, in order to be compliant with Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the "Act")* and/or their internal procedures. Note that for the purposes of the Act, a Beneficial Owner is defined as any individual or entity that owns or controls 25% or more of the company.

Please note that by returning this IVF and accepting the Commitment Letter and any Amendments or Offers of Renewal (if applicable), the Borrower(s) and Guarantor(s) have authorized the collection of personal information to be used to ascertain their identity in accordance with the requirements of the Act.

SECTION A – CORPORATE IDENTIFICATION INFORMATION

This IVF Pertains to (check one): **The Borrowing Entity** or **A Beneficial Owner** or **A Corporate Guarantor**

Legal Name of Company	Date of Incorporation
Trade Name of Company (if different)	Nature of Business
Civic Address	BIN

Legal Names of All Directors/Officers ¹	City/Town of Personal Residence	Occupation ²	PEP ³	
			Yes	No
			<input type="radio"/>	<input type="radio"/>
			<input type="radio"/>	<input type="radio"/>
			<input type="radio"/>	<input type="radio"/>
			<input type="radio"/>	<input type="radio"/>
			<input type="radio"/>	<input type="radio"/>
			<input type="radio"/>	<input type="radio"/>

1. For more than (7) Directors, please list the necessary information on a separate sheet and attach to this form.
 2. Occupation must be specific i.e. engineer, accountant. General descriptions such as businessman, investor or corporate position such as "President" are not acceptable.
 3. For definition of PEP (Politically Exposed Person) and requirements for confirmed PEP's, refer to Appendix A.

Required Attachments	Yes	No
Chart illustrating the Ownership Structure	<input type="radio"/>	<input type="radio"/>
Articles of Incorporation	<input type="radio"/>	<input type="radio"/>
Certificate of Status	<input type="radio"/>	<input type="radio"/>
Officer's Certificate (re: directors, officers, bylaws, borrowing authority)	<input type="radio"/>	<input type="radio"/>
Shareholder Register	<input type="radio"/>	<input type="radio"/>
Other:	<input type="radio"/>	<input type="radio"/>



Corporate Business Identification Verification & Attestation Form ("IVF")

Section B(i) – BENEFICIAL OWNERSHIP IDENTIFICATION INFORMATION (for Individuals)

To Be Completed by Individuals who own or control 25% or more of the business identified in Section A, directly or indirectly.

Check here if no Individual owns or controls 25% or more of the business identified in Section A, directly or indirectly.

Legal Names of Individual	Home Address	Occupation ¹	PEP ²	
			Yes	No
			Yes <input type="radio"/>	No <input type="radio"/>
			Yes <input type="radio"/>	No <input type="radio"/>
			Yes <input type="radio"/>	No <input type="radio"/>
			Yes <input type="radio"/>	No <input type="radio"/>

1. Occupation must be specific i.e. engineer, accountant. General descriptions such as businessman, investor or corporate position such as "President" are not acceptable.
 2. For definition of PEP (Politically Exposed Person) and requirements for confirmed PEP's, refer to Appendix A.

SECTION B(ii) – BENEFICIAL OWNERSHIP INFORMATION (for Entities)

To Be Completed by Entities who own or control 25% or more of the business identified in Section A, directly or indirectly.

Any Entity that owns or controls 25% or more (directly or indirectly) of the business identified in Section A must also complete a separate Identification Verification Form (IVF) in order to identify the Beneficial Ownership of said entity.

Legal Name of Entity	Business Address	Owns/Controls 25% or More of Borrowing Entity		Separate IVF Attached?	
		Yes	No	Yes	No
		Yes <input type="radio"/>	No <input type="radio"/>	Yes <input type="radio"/>	No <input type="radio"/>
		Yes <input type="radio"/>	No <input type="radio"/>	Yes <input type="radio"/>	No <input type="radio"/>
		Yes <input type="radio"/>	No <input type="radio"/>	Yes <input type="radio"/>	No <input type="radio"/>
		Yes <input type="radio"/>	No <input type="radio"/>	Yes <input type="radio"/>	No <input type="radio"/>

SECTION C(i) – GUARANTOR(S) IDENTIFICATION INFORMATION (for Individuals)

To Be Completed by Individuals.

Legal Names of Individual	Home Address	Occupation ¹	PEP ²	
			Yes	No
			Yes <input type="radio"/>	No <input type="radio"/>
			Yes <input type="radio"/>	No <input type="radio"/>
			Yes <input type="radio"/>	No <input type="radio"/>
			Yes <input type="radio"/>	No <input type="radio"/>

1. Occupation must be specific i.e. engineer, accountant. General descriptions such as businessman, investor or corporate position such as "President" are not acceptable.
 2. For definition of PEP (Politically Exposed Person) and requirements for confirmed PEP's, refer to Appendix A.

SECTION C(ii) – GUARANTOR(S) IDENTIFICATION INFORMATION (for Entities)

To Be Completed by Entities. Entity guarantors must complete a separate Identification Verification Form (IVF)

Legal Name of Entity	Business Address

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Corporate Business Identification Verification & Attestation Form ("IVF")

SECTION D – ACKNOWLEDGEMENT

You acknowledge that MCAP Financial Corporation, any third party that may fund any part of the loan/mortgage and any servicer of the loan/mortgage (hereinafter "we" "us" and "our" or similar meanings as the case may be) as well as their agents and service providers may:

- Collect, maintain, use and disclose the information contained herein, including Personal Information, to identify or locate you, protect us from fraud and error, determine eligibility for the loan/mortgage, and your ongoing creditworthiness as well as to administer your loan/mortgage, provide ongoing service and to comply with our internal procedures as well as legal and regulatory requirements.
- Collect from and confirm with various sources, your identity, financial and other personal information during the course of your relationship with us. These sources may include credit reporting agencies, your mortgage broker, government registries, employer(s), other financial institutions, references that you may provide to us and other sources we consider appropriate.
- Disclose and exchange your Personal Information with our agents, service providers, credit reporting agencies and financial institutions as well as any entity, or prospective entity that purchases, invests in or takes an assignment of all or part of the loan/mortgage.
- You understand that, to the extent permitted by law, the persons concerned are entitled to confirm the Personal Information we have about them and may request the correction of their Personal Information if inaccurate or out of date as set out in the MCAP Privacy Code, a copy of which is posted on our website (www.mcap.com).
- I declare that the information in Sections A, B, C and D of this form is full, complete and true. I confirm having obtained the consent of all individuals mentioned herein with respect to the collection, retention, use and disclosure of their Personal Information by you as described herein.
- I acknowledge that when requested, I will provide updated identification documentation to MCAP Financial Corporation to meet its regulatory obligations as well as additional information as may be required from time to time.
- I acknowledge that the subject loan is solely for the benefit of the Borrower and Beneficial Owner and not for the benefit of any third party.

Name (Print): _____ **Signature:** _____ **Date:** _____



Corporate Business Identification Verification & Attestation Form ("IVF")

Appendix A

POLITICALLY EXPOSED PERSONS (Domestic and Foreign "PEP")
 (Completion is MANDATORY for any individual identified in the IVF as a PEP as defined below)
 Please use additional copies of this form for each PEP

To the best of your knowledge, have you or any close relative, or any close associate, ever held any of the following positions or offices in or on behalf of a country/ province/ state or Public Body, listed in 1 through 11 below?

Note: a close relative means a spouse, civil union spouse or common-law partner, children/ step children, siblings/ half siblings/ step siblings of the Borrower(s), biological/ adoptive/ step parent of the Borrower(s), biological/ adoptive/ step parent of spouse, civil union spouse or common-law partner.

Note: a close associate is any natural person who is known to have a joint beneficial ownership of legal entities or legal arrangements, or any close business relationships with a PEP.

Note: a Public Body means an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body; or an agent or mandatary of any of them.

*It is a criminal offense to intentionally provide false information.

1. Head of State or Head of Government	7. Head of a Government Agency
2. Member of Executive Council of Government	8. Judge
3. Deputy Minister or Equivalent Rank	9. Leader or President of a Political Party represented in the Legislature
4. Ambassador; or Attaché; or Counsellor of an Ambassador; or High Commissioner	10. Holder of any prescribed/elected office or position
5. Military Officer with a rank of General or above	11. Head of an International Organization
6. President of a State-Owned Company or State Owned Bank	

Borrower / Guarantor Name		PEP's Full Name (Borrowers, Guarantors, Directors and Officers of Borrowers and Guarantors)	
Relationship	Position Held	Office/Institution/Organization	Country Where Position Held

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Corporate Business Identification Verification & Attestation Form ("IVF")

SCHEDULE "1"

Mortgage Number _____

Project Name _____ **Property Address** _____

SCHEDULE "1" – SIGNING AUTHORITIES (no more than 3)

To be completed for authorized individuals who have the power to bind the Borrowing Entity and instruct MCAP. Include those individuals who will be executing the Commitment Letter and the security.

SIGNING OFFICER - #1				
Last Name	First Name	Middle Name	Date of Birth	Sex
Occupation/Position (Descriptive Title Required)			Politically Exposed Person (PEP) Status	
			Yes <input type="radio"/> No <input type="radio"/> (Refer to Appendix A for Guidance)	
Home Address				
Primary Type of Document (Refer to Exhibit 1 for acceptable forms of ID)			Document Number	
Expiry Date	Place of Issue		Issuing Authority	
Secondary Type of Document (Refer to Exhibit 1 for acceptable forms of ID)		Document Number	Expiry Date	Place of Issue

You acknowledge that MCAP Financial Corporation, any third party that may fund any part of the loan/mortgage and any servicer of the loan/mortgage (hereinafter "we" "us" and "our" or similar meanings as the case may be) as well as their agents and service providers may:

- Collect, maintain, use and disclose the information contained herein, including Personal Information, to identify or locate you, protect us from fraud and error, determine eligibility for the loan/mortgage, and your ongoing creditworthiness as well as to administer your loan/mortgage, provide ongoing service and to comply with our internal procedures as well as legal and regulatory requirements.
- Collect from and confirm with various sources, your identity, financial and other personal information during the course of your relationship with us. These sources may include credit reporting agencies, your mortgage broker, government registries, employer(s), other financial institutions, references that you may provide to us and other sources we consider appropriate.
- Disclose and exchange your Personal Information with our agents, service providers, credit reporting agencies and financial institutions as well as any entity, or prospective entity that purchases, invests in or takes an assignment of all or part of the loan/mortgage.
- You understand that, to the extent permitted by law, the persons concerned are entitled to confirm the Personal Information we have about them and may request the correction of their Personal Information if inaccurate or out of date as set out in the MCAP Privacy Code, a copy of which is posted on our website (www.mcap.com).
- I declare that the information in Sections A, B, C and D of this form is full, complete and true. I confirm having obtained the consent of all individuals mentioned herein with respect to the collection, retention, use and disclosure of their Personal Information by you as described herein.
- I acknowledge that when requested, I will provide updated identification documentation to MCAP Financial Corporation to meet its regulatory obligations as well as additional information as may be required from time to time.
- I acknowledge that the subject loan is solely for the benefit of the Borrower and Beneficial Owner and not for the benefit of any third party.

Name (Print) _____ **Signature** _____ **Date** _____

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Corporate Business Identification Verification & Attestation Form ("IVF")

SIGNING OFFICER - #2				
Last Name	First Name	Middle Name	Date of Birth	Sex
Occupation/Position (Descriptive Title Required)		Politically Exposed Person (PEP) Status		
		Yes <input type="radio"/> No <input checked="" type="radio"/> (Refer to Appendix A for Guidance)		
If "Yes", individual must complete a separate Appendix A				
Home Address				
Primary Type of Document (Refer to Exhibit 1 for acceptable forms of ID)		Document Number		
Expiry Date	Place of Issue	Issuing Authority		
Secondary Type of Document (Refer to Exhibit 1 for acceptable forms of ID)	Document Number	Expiry Date	Place of Issue	
You acknowledge that MCAP Financial Corporation, any third party that may fund any part of the loan/mortgage and any servicer of the loan/mortgage (hereinafter "we" "us" and "our" or similar meanings as the case may be) as well as their agents and service providers may:				
<ul style="list-style-type: none"> - Collect, maintain, use and disclose the information contained herein, including Personal Information, to identify or locate you, protect us from fraud and error, determine eligibility for the loan/mortgage, and your ongoing creditworthiness as well as to administer your loan/mortgage, provide ongoing service and to comply with our internal procedures as well as legal and regulatory requirements. - Collect from and confirm with various sources, your identity, financial and other personal information during the course of your relationship with us. These sources may include credit reporting agencies, your mortgage broker, government registries, employer(s), other financial institutions, references that you may provide to us and other sources we consider appropriate. - Disclose and exchange your Personal Information with our agents, service providers, credit reporting agencies and financial institutions as well as any entity, or prospective entity that purchases, invests in or takes an assignment of all or part of the loan/mortgage. - You understand that, to the extent permitted by law, the persons concerned are entitled to confirm the Personal Information we have about them and may request the correction of their Personal Information if inaccurate or out of date as set out in the MCAP Privacy Code, a copy of which is posted on our website (www.mcap.com). - I declare that the information in Sections A, B, C and D of this form is full, complete and true. I confirm having obtained the consent of all individuals mentioned herein with respect to the collection, retention, use and disclosure of their Personal Information by you as described herein. - I acknowledge that when requested, I will provide updated identification documentation to MCAP Financial Corporation to meet its regulatory obligations as well as additional information as may be required from time to time. - I acknowledge that the subject loan is solely for the benefit of the Borrower and Beneficial Owner and not for the benefit of any third party. 				
Name (Print)	Signature	Date		

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Corporate Business Identification Verification & Attestation Form ("IVF")

SIGNING OFFICER - #3				
Last Name	First Name	Middle Name	Date of Birth	Sex
Occupation/Position (Descriptive Title Required)		Politically Exposed Person (PEP) Status		
		Yes <input type="radio"/> No <input type="radio"/> (Refer to Appendix A for Guidance)		
		If "Yes", individual must complete a separate Appendix A		
Home Address				
Primary Type of Document (Refer to Exhibit 1 for acceptable forms of ID)			Document Number	
Expiry Date		Place of Issue	Issuing Authority	
Secondary Type of Document (Refer to Exhibit 1 for acceptable forms of ID)		Document Number	Expiry Date	Place of Issue
You acknowledge that MCAP Financial Corporation, any third party that may fund any part of the loan/mortgage and any servicer of the loan/mortgage (hereinafter "we" "us" and "our" or similar meanings as the case may be) as well as their agents and service providers may:				
<ul style="list-style-type: none"> - Collect, maintain, use and disclose the information contained herein, including Personal Information, to identify or locate you, protect us from fraud and error, determine eligibility for the loan/mortgage, and your ongoing creditworthiness as well as to administer your loan/mortgage, provide ongoing service and to comply with our internal procedures as well as legal and regulatory requirements. - Collect from and confirm with various sources, your identity, financial and other personal information during the course of your relationship with us. These sources may include credit reporting agencies, your mortgage broker, government registries, employer(s), other financial institutions, references that you may provide to us and other sources we consider appropriate. - Disclose and exchange your Personal Information with our agents, service providers, credit reporting agencies and financial institutions as well as any entity, or prospective entity that purchases, invests in or takes an assignment of all or part of the loan/mortgage. - You understand that, to the extent permitted by law, the persons concerned are entitled to confirm the Personal Information we have about them and may request the correction of their Personal Information if inaccurate or out of date as set out in the MCAP Privacy Code, a copy of which is posted on our website (www.mcap.com). - I declare that the information in Sections A, B, C and D of this form is full, complete and true. I confirm having obtained the consent of all individuals mentioned herein with respect to the collection, retention, use and disclosure of their Personal Information by you as described herein. - I acknowledge that when requested, I will provide updated identification documentation to MCAP Financial Corporation to meet its regulatory obligations as well as additional information as may be required from time to time. - I acknowledge that the subject loan is solely for the benefit of the Borrower and Beneficial Owner and not for the benefit of any third party. 				
Name (Print)		Signature		Date

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Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

April 28, 2020



Corporate Business Identification Verification & Attestation Form ("IVF")

AGENT ATTESTATION			
<p>I confirm that I, _____ of the firm _____ have been appointed as solicitor/agent for the Borrower noted on the Loan Commitment provided by MCAP Financial Corporation ("MCAP"). I understand that, as a condition of MCAP's Loan Commitment to the Borrower, MCAP has required me to confirm that I have personally met with each person named above, examined the original personal identification documentation disclosed herein with respect to each such person, and, accordingly, I can confirm that the information matches the original personal identification documentation provided to me by such persons. I further confirm that, having made reasonable inquiries, I have no reason to believe that the Borrowers are acting on behalf of any undisclosed third parties. I acknowledge and agree that MCAP, and any funder or servicer with respect to the Loan Commitment and the related loan/mortgage (if advanced), may rely on the foregoing to meet applicable legal requirements.</p>			
Name:	Signature:	Telephone:	Date: (DD/ MM/ YYYY)
_____	_____	_____	_____

Return this completed form to MCAP, **ALONG WITH CLEAR AND LEGIBLE COPIES OF BOTH SIDES OF THE "PRIMARY IDENTIFICATION" EXAMINED.** "Secondary Identification" only needs to be recorded above.



Corporate Business Identification Verification & Attestation Form ("IVF")

Appendix A

POLITICALLY EXPOSED PERSONS (Domestic and Foreign "PEP")
 Completion is **MANDATORY** for any individual identified in the IVF as a PEP as defined below*
 Please use **additional copies** of this form for each PEP

To the best of your knowledge, have you or any close relative, or any close associate, ever held any of the following positions or offices in or on behalf of a country/ province/ state or **Public Body**, listed in 1 through 11 below?

Note: a **close relative** means a spouse, civil union spouse or common-law partner, children/ step children, siblings/ half siblings/ step siblings of the Borrower(s), biological/ adoptive/ step parent of the Borrower(s), biological/ adoptive/ step parent of spouse, civil union spouse or common-law partner.

Note: a **close associate** is any natural person who is known to have a joint beneficial ownership of legal entities or legal arrangements, or any close business relationships with a PEP.

Note: a **Public Body** means an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body, or an agent or mandatory of any of them.

*It is a criminal offense to intentionally provide false information.

1. Head of State or Head of Government
2. Member of Executive Council of Government
3. Deputy Minister or Equivalent Rank
4. Ambassador; or Attaché; or Counsellor of an Ambassador; or High Commissioner
5. Military Officer with a rank of General or above
6. President of a State-Owned Company or State Owned Bank
7. Head of a Government Agency
8. Judge
9. Leader or President of a Political Party represented in the Legislature
10. Holder of any prescribed/elected office or position
11. Head of an International Organization

Borrower / Guarantor Name		PEP's Full Name (Borrowers, Guarantors, Directors and Officers of Borrowers and Guarantors)	
Relationship	Position Held	Office/Institution/Organization	Country Where Position Held



Corporate Business Identification Verification & Attestation Form ("IVF")

EXHIBIT 1: ACCEPTABLE FORMS OF IDENTIFICATION

Each Signatory must present to the solicitor/notary for examination:

1. One piece of "Primary Identification" and one piece of "Secondary Identification" or
2. Two pieces of "Primary Identification"

No other form of identification is acceptable. All identification must be original, valid, legible and in good condition. Each Signing Officer is required to be physically present when you ascertain his or her identity.

Canadian Residents

Primary Identification	Secondary Identification
<ul style="list-style-type: none"> • A valid driver's licence¹ issued in Canada; • Current Canadian Passport; • Nexus/ CANPASS card; • A Federally issued Firearms Licence • A Certificate of Canadian Citizenship (containing your photograph) or Certification of Naturalization (containing your photograph); • A Federally issued Permanent Resident Card; • A Certificate of Indian Status issued by the Government of Canada; • A Provincial Health Insurance Card (with photo)²; or • A Provincial Government issued Photo ID Card. 	<ul style="list-style-type: none"> • An employee identity card with a photograph from an employer well known in the community; • A signed automated banking machine (ABM) card or client card issued by a member of the Canadian Payments Association; • A signed credit card issued by a member of the Canadian Payments Association; • A signed Canadian Institute for the Blind (CNIB) client card with a photograph; • A birth certificate issued in Canada; • A Social Insurance Number(SIN) card issued by the Government of Canada; • A Certificate of Canadian Citizenship; or • Métis Nation ID Card.

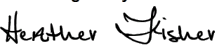
NOTE:

¹ In Quebec, never request a driver's licence. Accept and record the number only if offered.

² In Ontario, Manitoba, Nova Scotia and Prince Edward Island, the Provincial Health Card is NOT an acceptable form of identification. In Quebec, never ask to see a Health Card; if offered, record the particulars.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "D" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



400-200 King Street West
Toronto, ON M5H 3T4
416-598-2665

August 18, 2020

Vandyk-Backyard Kings Mill Limited
c/o Vandyk Communities
1944 Fowler Drive,
Mississauga, ON,
L5K 0A1

ATTENTION: Richard Ma

RE: Kings Mill Condos, Loan # 19-6493-T41/91 234-unit condominium building, 15 Neighbourhood Ln., Etobicoke, ON

MCAP Financial Corporation (hereinafter referred to as the "Lender") provides the following amendment (the "Amendment") subject to the terms and conditions set out below. Save and except as amended hereby, all other terms and conditions of the Commitment Letter dated April 28, 2020 shall remain unchanged and in effect. Together, this Amendment, and the aforementioned letters shall collectively be known as the "Commitment Letter".

Borrower Name: Unchanged
Vandyk-Backyard Kings Mill Limited, beneficially owned 100% by Vandyk-Backyard Humberside Limited, owned 100% by Vandyk Holdings Incorporated, owned 100% by John Vandyk (the "Borrower")

Lender: Unchanged
MCAP (the "Lender")

Guarantor: Unchanged
The personal guarantee of John Vandyk in the amount of \$40,000,000 and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited (the "Guarantor")

Project Description: Unchanged
"Kings Mill Condos" being the construction of a 8 & 10-storey, 234-unit residential condominium building consisting of 184,224 SF of GFA and 152,247 SF of NSA, with 210 parking stalls provided over 3 levels of underground, located at 15 Neighbourhood Lane, north of the Queensway and west of the Humber River, in Etobicoke. The building statistics are summarized as follows:

	Total
# of Units	234
Gross Floor Area	184,224
Net Saleable Area	152,247
Average Unit Size	651
Efficiency Ratio	82.6%

The building unit mix and revenue is summarized as follows:

Unit Type	Total					
	# of Units	Total Revenue	Total SF	Avg. SF/Unit	Avg. \$/Unit	Avg. \$/SF
Studio	7	\$ 2,553,930	2,821	403	\$ 364,847	\$ 905
1 Bed	27	\$ 11,725,730	13,485	499	\$ 434,286	\$ 870
1 Bed + Den	110	\$ 51,720,900	63,837	580	\$ 470,190	\$ 810
1 Bed + Media	10	\$ 4,737,900	5,939	594	\$ 473,790	\$ 798
2 Bed	44	\$ 24,810,560	32,505	739	\$ 563,876	\$ 763
2 Bed + Den	13	\$ 8,462,870	11,499	885	\$ 650,990	\$ 736
3 Bed	11	\$ 7,729,890	9,683	880	\$ 702,717	\$ 798
3 Bed + Den	12	\$ 9,083,880	12,478	1,040	\$ 756,990	\$ 728
Total	234	\$ 120,825,660	152,247	651	\$ 516,349	\$ 794

(the "Project").

Amendment Letter

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

August 18, 2020

Loan Facility: Unchanged
 Facility 1: \$79,555,000 1st Mortgage Non-revolving Construction Loan
 Facility 2: \$ 4,000,000 Letters of Credit

(the "Loan Facility").

Purpose: To clarify that the terms of the April 28, 2020 Commitment Letter are subject to syndication.

Amended Security: Amended as recommended by the Lender's Solicitor.

Amending Conditions: All Funding Conditions of the April 28, 2020 Commitment Letter remain unchanged and are now to include the following, as acknowledged by the Borrower:

1. The terms of the April 28, 2020 Commitment Letter are subject to syndication.

Availability: Unchanged, as per the April 28, 2020 Commitment Letter.

If you are in agreement with the foregoing terms and conditions, please indicate by signing and returning one (1) copy of this Amendment to the Lender via the email address provided below within 10 business days from the date of this Commitment.

Yours truly,

MCAP FINANCIAL CORPORATION



James Tobias
Senior Director



Mario Policicchio
Advisor



Bruno Iacovetta
Managing Director

Amendment Letter

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

August 18, 2020


Borrower and Guarantor hereby accepts the terms and conditions of the above-mentioned Commitment, agree to be responsible for all fees and disbursements payable in accordance with provisions of this Commitment and authorize the credit checks contemplated herein.

ACCEPTANCE

I/WE HEREBY accept the terms and conditions as stated herein. By signing this Commitment Letter, Borrower acknowledges that this loan is solely for its own benefit, and not for the benefit of any third party, except as specifically disclosed herein.


DATED AT Mississauga this 20th day of Aug, 2020.

Vandyk-Backyard Kings Mill Limited


Per:
I have the authority to bind the corporation

Per:
I have the authority to bind the corporation

Vandyk-Backyard Humberstone Limited


Per:
I have the authority to bind the corporation

Per:
I have the authority to bind the corporation

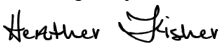

Witness


John Vandyk

Email Address: James.Tobias@MCAP.com

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "E" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



DFG
DEVELOPMENT
FINANCE
GROUP

400 200 King Street West
Toronto, ON M5H 3T4
416 598 2665

December 13, 2022

Vandyk-Backyard Kings Mill Limited
c/o Vandyk Communities
1944 Fowler Drive,
Mississauga, ON,
L5K 0A1

ATTENTION: John Vandyk

RE: Kings Mill Condos. Loan # 19-6493-T41/91 234-unit condominium building, 15 Neighbourhood Ln., Etobicoke, ON

MCAP Financial Corporation (hereinafter referred to as the "Lender") provides the following amendment (the "Amendment") subject to the terms and conditions set out below. Save and except as amended hereby, all other terms and conditions of the Commitment Letter dated April 28, 2020 and the Amendment Letter dated August 18, 2020 shall remain unchanged and in effect. Together, this Amendment, and the aforementioned letters shall collectively be known as the "Commitment Letter".

Borrower Name: Unchanged
Vandyk-Backyard Kings Mill Limited, beneficially owned 100% by Vandyk-Backyard Humberside Limited, owned 100% by Vandyk Holdings Incorporated, owned 100% by John Vandyk (the "Borrower")

Lender: Unchanged
MCAP (the "Lender")

Guarantor: Old Deal
The personal guarantee of John Vandyk in the amount of \$40,000,000 and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited

New Deal
The personal guarantee of John Vandyk in the amount of \$43,000,000 and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited

(the "Guarantor")

Amended Project Description: Unchanged
"Kings Mill Condos" being the construction of an 8 & 10-storey, 234-unit residential condominium building consisting of 184,224 SF of GFA and 152,247 SF of NSA, with 233 parking stalls provided over 3 levels of underground, located at 15 Neighbourhood Lane, north of the Queensway and west of the Humber River, in Etobicoke. The building statistics are summarized as follows:

	Total
# of Units	234
Gross Floor Area	184,224
Net Saleable Area	152,247
Average Unit Size	651
Efficiency Ratio	82.6%

The building unit mix and revenue is summarized as follows:

Amendment Letter
Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

December 13, 2022

Unit Type	Total Units	Total			Sold			Unsold				
		Avg \$/Unit	Avg. Size (sq ft)	Avg. \$/sq ft	# of Units	Avg \$/Unit	Avg. Size (sq ft)	Avg. \$/sq ft	# of Units	Avg \$/Unit	Avg. Size (sq ft)	Avg. \$/sq ft
Studio	7	\$ 378,397	483	\$ 929	6	\$ 372,323	403	\$ 924	1	\$ 414,840	483	\$ 1,029
1 Br.	27	\$ 438,277	588	\$ 877	23	\$ 425,599	591	\$ 851	4	\$ 505,426	491	\$ 1,029
1 Br. + Den	110	\$ 479,511	588	\$ 825	102	\$ 469,215	580	\$ 809	8	\$ 597,040	580	\$ 1,029
1 Br. + Media	10	\$ 488,882	584	\$ 829	8	\$ 469,740	584	\$ 791	2	\$ 611,452	594	\$ 1,029
2 Br.	44	\$ 565,217	739	\$ 765	44	\$ 565,217	739	\$ 765	0	-	-	-
2 Br. + Den	13	\$ 709,380	885	\$ 792	10	\$ 640,592	888	\$ 721	3	\$ 899,678	874	\$ 1,029
3 Br.	11	\$ 714,463	881	\$ 811	10	\$ 703,850	889	\$ 792	1	\$ 820,416	797	\$ 1,029
3 Br. + Den	12	\$ 817,942	1040	\$ 787	10	\$ 752,390	1025	\$ 734	2	\$ 1,145,700	1112	\$ 1,029
Total	224	\$ 628,854	651	\$ 799	213	\$ 514,083	650	\$ 791	21	\$ 678,261	659	\$ 1,029

(the "Project").

Amended Loan Facility: As at December 12, 2022

Facility #	Facility Type	Authorized	Outstanding	Requested
1	Construction Loan	\$ 79,555,000	\$ 21,090,853	\$ 83,611,141
2	Letters of Credit	\$ 4,000,000	\$ 2,038,500	\$ 4,000,000
		\$ 83,555,000	\$ 23,129,353	\$ 87,611,141

(the "Loan Facility").

Purpose: To increase the approved loan by \$4,056,141 to assist in funding an identified \$6,523,387 net budget increase on the subject Project that has been driven primarily by hard cost increases and an interest reserve increase. The balance of the cost increase is to be funded by additional Borrower's cash equity of \$1,306,182 and increased deferred costs of \$1,161,064 via deferral of the Construction Management Fee.

Interest Rate: Unchanged
Facility 1: The greater of Royal Bank Prime + 2.00% or 5.70% per annum

Amendment Fee: \$50,000 to be payable from the next loan advance

Amended Security: Old Deal
The personal guarantee of John Vandyk in the amount of \$40,000,000 plus interest and expenses and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited plus interest and expenses and an assignment and postponement of claims by the Guarantor and all shareholders of the Borrower relating to any claims against the Borrower.

New Deal
The personal guarantee of John Vandyk in the amount of \$43,000,000 plus interest and expenses and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited plus interest and expenses and an assignment and postponement of claims by the Guarantor and all shareholders of the Borrower relating to any claims against the Borrower.

Amending Conditions: Old Deal
1. The Borrower shall have provided evidence in sufficient detail, satisfactory to the Lender and verified by the Lender's Cost Consultant, that the total costs for the Project, including land, hard and soft costs and interest during the construction and the sell out period shall not exceed \$110,388,158 excluding HST costs as detailed under the Financing Program. In addition, Lender's Cost Consultant to confirm the reasonableness of Deferred Costs of up to \$4,531,833 as per the Financing Program.

New Deal
1. The Borrower shall have provided evidence in sufficient detail, satisfactory to the Lender and verified by the Lender's Cost Consultant, that the total costs for the Project, including land, hard and soft costs and interest during the construction

Amendment Letter
Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

December 13, 2022

and the sell out period shall not exceed \$116,911,545 excluding HST costs as detailed under the Financing Program. In addition, Lender's Cost Consultant to confirm the reasonableness of Deferred Costs of up to \$5,692,897 as per the Financing Program.

2. Legal opinion from the Lender's solicitor confirming the validity of the proposed recovery amounts totaling \$6,747,738
3. Confirmation by the Cost Consultant that the Borrower has injected \$1,306,182 of cash equity into the Project to pay for Project costs.
4. The Lender to be provided with a current liquidity, cash flow and project analysis for the Vandyk Group of Companies that must be acceptable to the Lender in its sole discretion.

Amended Availability:

Old Deal

1. All advances to complete the construction of the Project shall be funded on a cost to complete basis supported by satisfactory inspection certificates, and in amounts not less than \$100,000 and not more frequently than once per month. The outstanding balance of all advances under the Loan Facility are, at all times, not to exceed \$79,555,000.
2. Accumulated advances shall at no time exceed the cost of work in place less Appraisal Surplus of \$9,029,386, deferred costs incurred of up to \$4,531,833, staged purchaser deposits utilized in the Project of \$17,271,939, and applicable holdbacks as required under applicable provincial lien legislation, based on the Project Monitor's recommendation and title search confirming absence of liens. In addition, the cost to complete net of deferred costs and deposits to be received shall at no time exceed the unadvanced portion of funds under the Facility.

New Deal

1. All advances to complete the construction of the Project shall be funded on a cost to complete basis supported by satisfactory inspection certificates, and in amounts not less than \$100,000 and not more frequently than once per month. The outstanding balance of all advances under the Loan Facility are, at all times, not to exceed \$83,611,141.
2. Accumulated advances shall at no time exceed the cost of work in place less Appraisal Surplus of \$9,029,386, Borrower's cash equity of \$1,306,182, deferred costs incurred of up to \$5,692,897, staged purchaser deposits utilized in the Project of \$17,271,939, and applicable holdbacks as required under applicable provincial lien legislation, based on the Project Monitor's recommendation and title search confirming absence of liens. In addition, the cost to complete net of deferred costs and deposits to be received shall at no time exceed the unadvanced portion of funds under the Facility.
3. For the pending draw number 14 in the amount of \$2,708,110, the Lender is prepared to waive the new security requirement for an increase in the personal guarantee of John Vandyk from \$40,000,000 to \$43,000,000 and the new funding condition requiring the receipt and satisfactory review of the liquidity, cash flow and project analysis of the Vandyk Group of Companies to the sole discretion of the Lender. However, no further draws on the Construction Loan will be permitted until such time as the new security is in place and the funding condition is satisfied.

Amendment Letter
Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

December 13, 2022

Amended Project Economics:

	Old Deal	Variance	New Deal	Per Unit	P.S.F.	%
Sold Residential Unit Revenue	\$ 109,144,790	\$ 357,080	\$ 109,501,870	\$ 514,093	\$ 791	90.7%
Unsold Residential Unit Revenue	\$ 11,894,780	\$ 2,352,869	\$ 14,247,649	\$ 678,459	\$ 1,029	9.9%
Sold Parking Revenue	\$ 6,244,000	\$ 35,000	\$ 6,279,000	\$ 30,779	N/A	5.2%
Unsold Parking Revenue	\$ 924,500	\$ (5,500)	\$ 919,000	\$ 30,633	N/A	0.8%
Closing Recoveries	\$ 1,873,736	\$ 4,874,002	\$ 6,747,738	\$ 28,836	\$ 37	1.6%
Gross Revenue	\$ 130,081,806	\$ 7,613,451	\$ 137,695,257	\$ 555,905	\$ 904	108.1%
Less: HST	\$ 9,779,689	\$ 141,561	\$ 9,921,250	\$ 42,399	\$ 65	8.1%
Net Revenue	\$ 120,302,117		\$ 127,774,007	\$ 514,112	\$ 839	100.0%
Allocated Land Cost	\$ 7,870,614	\$ -	\$ 7,870,614	\$ 33,635	\$ 43	6.2%
Appraisal Surplus	\$ 9,029,386	\$ -	\$ 9,029,386	\$ 38,587	\$ 49	7.1%
Total Land Cost	\$ 16,900,000	\$ -	\$ 16,900,000	\$ 72,222	\$ 92	13.2%
Cost of Construction	\$ 63,337,100	\$ 3,987,019	\$ 67,324,119	\$ 287,710	\$ 365	52.7%
Construction Contingency	\$ 2,995,182	\$ (923,000)	\$ 2,072,182	\$ 8,855	\$ 11	1.6%
Construction Management	\$ 1,461,064	\$ -	\$ 1,461,064	\$ 6,244	\$ 8	1.1%
Construction Costs	\$ 67,793,346	\$ 3,064,019	\$ 70,857,365	\$ 302,809	\$ 385	55.5%
Sales Commissions	\$ 4,838,266	\$ 49,991	\$ 4,888,257	\$ 20,890	\$ 27	3.8%
Marketing and Advertising	\$ 150,000	\$ -	\$ 150,000	\$ 641	\$ 1	0.1%
Selling Costs	\$ 4,988,266	\$ 49,991	\$ 5,038,257	\$ 21,531	\$ 27	3.9%
Development Charges	\$ 7,031,862	\$ 2,423,633	\$ 9,455,495	\$ 40,408	\$ 51	7.4%
DC Increases	\$ 1,119,536	\$ (1,119,536)	\$ -	\$ -	\$ -	0.0%
Parkland Dedication	\$ 1,690,000	\$ (690,000)	\$ 1,000,000	\$ 4,274	\$ 5	0.8%
Consultants	\$ 400,000	\$ 1,440,924	\$ 1,840,924	\$ 7,867	\$ 10	1.4%
Occupancy Income	\$ -	\$ (1,810,424)	\$ (1,810,424)	\$ (7,737)	\$ (10)	-1.4%
Other Soft Costs	\$ 1,631,441	\$ 725,744	\$ 2,357,185	\$ 10,073	\$ 13	1.8%
Soft Cost Contingency	\$ 1,038,157	\$ (809,712)	\$ 228,445	\$ 976	\$ 1	0.2%
Soft Costs	\$ 12,910,996	\$ 160,629	\$ 13,071,625	\$ 55,862	\$ 71	10.2%
Construction Loan Interest	\$ 7,000,000	\$ 3,198,748	\$ 10,198,748	\$ 43,584	\$ 55	8.0%
Construction Loan Fee	\$ 795,550	\$ 50,000	\$ 845,550	\$ 3,613	\$ 5	0.7%
Total Project Costs	\$ 110,388,158	\$ 6,523,387	\$ 116,911,545	\$ 499,622	\$ 635	91.5%
Potential Project Profit	\$ 9,913,959	\$ 948,503	\$ 10,862,462	\$ 46,421	\$ 59	8.5%
Add back Appraisal Surplus	\$ 9,029,386		\$ 9,029,386	\$ 38,587	\$ 49	7.1%
Adjusted Profit	\$ 18,943,345	\$ 948,503	\$ 19,891,848	\$ 85,008	\$ 108	15.6%

Amended Financing Program:

	Old Deal	Variance	New Deal	Per Unit	P.S.F.	%
MCAP Construction Loan	\$79,555,000	\$4,056,141	\$83,611,141	\$357,313	\$549	71.5%
Purchaser Deposits	\$17,271,939		\$17,271,939	\$73,812	\$113	14.8%
Deferred Costs	\$4,531,833	\$1,161,064	\$5,692,897	\$24,329	\$37	4.9%
Cash Equity	\$0	\$1,306,182	\$1,306,182	\$5,582	\$9	1.1%
Appraisal Surplus	\$9,029,386		\$9,029,386	\$38,587	\$59	7.7%
Total Source of Funds	\$110,388,158	\$6,523,387	\$116,911,545	\$499,622	\$768	100%

If you are in agreement with the foregoing terms and conditions, please indicate by signing and emailing one (1) copy of this Commitment to michael.misener@mcap.com within 10 business days from the date of this Commitment, failing which this letter shall be deemed null and void.

Yours truly,

MCAP FINANCIAL CORPORATION

Michael Misener

Michael Misener
Senior Director

Bruno Iacovetta

Bruno Iacovetta
Managing Director

Amendment Letter

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

December 13, 2022

Borrower and Guarantor hereby accepts the terms and conditions of the above-mentioned Commitment, agree to be responsible for all fees and disbursements payable in accordance with provisions of this Commitment and authorize the credit checks contemplated herein.

ACCEPTANCE

I/WE HEREBY accept the terms and conditions as stated herein. By signing this Commitment Letter, Borrower acknowledges that this loan is solely for its own benefit, and not for the benefit of any third party, except as specifically disclosed herein.

DATED AT Mississauga, this 14th day of Dec, 2022.

Vandyk-Backyard Kings Mill Limited

[Signature]
Per:
I have the authority to bind the corporation

[Signature]
Per:
I have the authority to bind the corporation

Vandyk-Backyard HumberSide Limited

[Signature]
Per:
I have the authority to bind the corporation


[Signature]
Per:
I have the authority to bind the corporation

[Signature]
Witness
Richard Ma.

[Signature]
John Vandyk

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "F" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



400-200 King Street West
Toronto, ON M5H 3T4
416-598-2665

June 19, 2023

Vandyk-Backyard Kings Mill Limited
c/o Vandyk Communities
1944 Fowler Drive,
Mississauga, ON,
L5K 0A1

ATTENTION: John Vandyk

RE: Kings Mill Condos, Loan # 19-6493-T41/91 234-unit condominium building, 15 Neighbourhood Ln., Etobicoke, ON

MCAP Financial Corporation (hereinafter referred to as the "Lender") provides the following amendment (the "Amendment") subject to the terms and conditions set out below. Save and except as amended hereby, all other terms and conditions of the Commitment Letter dated April 28, 2020 and the Amendment Letters dated August 18, 2020 and December 13, 2022 shall remain unchanged and in effect. Together, this Amendment, and the aforementioned letters shall collectively be known as the "Commitment Letter".

Borrower Name: Vandyk-Backyard Kings Mill Limited
(the "**Borrower**")

Beneficial Ownership: Beneficially owned 100% by Vandyk-Backyard HumberSide Limited, owned 100% by Vandyk Holdings Incorporated, owned 100% by John Vandyk
(the "**Beneficial Owner**")

Lender: MCAP
(the "**Lender**")

Guarantor: The personal guarantee of John Vandyk in the amount of \$43,000,000 and the unlimited corporate guarantee of Vandyk-Backyard HumberSide Limited
(the "**Guarantor**")

Project Description: "**Kings Mill Condos**" being the construction of an 8 & 10-storey, 234-unit residential condominium building consisting of 184,224 SF of GFA and 152,247 SF of NSA, with 233 parking stalls provided over 3 levels of underground, located at 15 Neighbourhood Lane, north of the Queensway and west of the Humber River, in Etobicoke. The building statistics are summarized as follows:

	Total
# of Units	234
Gross Floor Area	184,224
Net Saleable Area	152,247
Average Unit Size	651
Efficiency Ratio	82.6%

The building unit mix and revenue is summarized as follows:

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Amendment Letter

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

June 19, 2022

Unit Type	Total Units	Total			Sold			Unsold				
		Avg \$/Unit	Avg. Size (sq. ft.)	Avg. \$/sq. ft.	# of Units	Avg \$/Unit	Avg. Size (sq. ft.)	Avg. \$/sq. ft.	# of Units	Avg \$/Unit	Avg. Size (sq. ft.)	Avg. \$/sq. ft.
Studio	7	\$ 378,397	403	\$ 939	6	\$ 372,323	403	\$ 924	1	\$ 414,840	403	\$ 1,029
1 Br.	27	\$ 438,277	500	\$ 877	23	\$ 426,599	501	\$ 851	4	\$ 505,426	491	\$ 1,029
1 Br. + Den	110	\$ 478,511	580	\$ 825	102	\$ 469,215	580	\$ 809	8	\$ 597,040	580	\$ 1,029
1 Br. + Media	10	\$ 498,082	594	\$ 839	8	\$ 469,740	594	\$ 791	2	\$ 611,452	594	\$ 1,029
2 Br.	44	\$ 565,217	739	\$ 765	44	\$ 565,217	739	\$ 765	0	\$ -		
2 Br. + Den	13	\$ 700,380	885	\$ 792	10	\$ 640,590	888	\$ 721	3	\$ 899,678	874	\$ 1,029
3 Br.	11	\$ 714,483	881	\$ 811	10	\$ 703,890	889	\$ 792	1	\$ 820,416	797	\$ 1,029
3 Br. + Den	12	\$ 817,942	1040	\$ 787	10	\$ 752,390	1025	\$ 734	2	\$ 1,145,700	1113	\$ 1,029
Total	234	\$ 820,064	661	\$ 799	213	\$ 614,093	660	\$ 791	21	\$ 678,361	669	\$ 1,029

(the "Project").

Loan Facility:

Facility #	Facility Type	Authorized	Outstanding	Requested
1	Construction Loan	\$ 83,611,141	\$ 31,835,566	\$ 83,611,141
2	Letters of Credit	\$ 4,000,000	\$ 2,038,500	\$ 4,000,000
		\$ 87,611,141	\$ 33,874,066	\$ 87,611,141

(the "Loan Facility").

Purpose:

- To renew the loan for 15 months as of August 1, 2023, with 2 x 3-month extension periods to facilitate the completion of the project and final closings.
- To amend the project budget to account for the renewal fee of \$585,277 which is to be covered by additional cash equity (\$335,277) and from contingency (\$250,000), and to account for interest owed to purchasers on their deposits at closing due to interest rates rising past the minimum criteria in which the Borrower is required to pay interest on the deposits. The Cost Consultant has calculated the interest owing to purchasers by the occupancy date to be \$762,319 (+/- \$3,579 per unit) which will be 100% classified as deferred costs.
- To amend the floor rate of interest from 5.70% to 7.70%

Amended Interest Rate:

Facility 1: The Greater of Royal Bank Prime + 2.00% or 7.70% per annum.

Renewal Fee:

\$585,277 due on execution of the Amendment Letter and payable by August 1, 2023.

Amended Term:

Facility 1:

Repayable on demand by the Lender, however, without prejudice to the right of the Lender to demand payment at any time for any reason whatsoever, the Lender acknowledges that the repayment schedule proposed by the Borrower forecasts the repayment of any drawn amounts under Facility 1 including interest within 32 47 months of December 1, 2020, being the first day of the month following the first advance of funds under Facility 1 ("Maturity Date"). Subject to there having been no default by the Borrower or the Guarantor during the original term of the loan, two extension periods of up to 3 months each may be granted at the Lender's option subject to payment of the Extension Fee.

Amended Security:

Amended as recommended by the Lender's Solicitor.

Amending Conditions:

- The Borrower shall have provided evidence in sufficient detail, satisfactory to the Lender and verified by the Lender's Cost Consultant, that the total costs for the Project, including land, hard and soft costs and interest during the construction

Amendment Letter

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

June 19, 2022

and the sell out period shall not exceed ~~\$116,911,645~~ **\$118,009,142** excluding HST costs as detailed under the Financing Program. In addition, Lender's Cost Consultant to confirm the reasonableness of Deferred Costs of up to ~~\$5,692,897~~ **\$6,455,217** as per the Financing Program.

2. Total contingency amounts are to be maintained at a minimum of 3.5% of total cost to complete at all times.

Amended Availability:

Accumulated advances shall at no time exceed the cost of work in place less Appraisal Surplus of \$9,029,386, Borrower's cash equity of ~~\$1,306,182~~ **\$1,641,459**, deferred costs incurred of up to ~~\$5,692,897~~ **\$6,455,217**, staged purchaser deposits utilized in the Project of \$17,271,939, and applicable holdbacks as required under applicable provincial lien legislation, based on the Project Monitor's recommendation and title search confirming absence of liens. In addition, the cost to complete net of deferred costs and deposits to be received shall at no time exceed the unadvanced portion of funds under the Facility.

Amended Project Economics:

	Last Approval	Variance	Amended Deal	Per Unit	P.S.F.	%
Sold Residential Unit Revenue	\$ 109,501,870	\$ -	\$ 109,501,870	\$ 514,093	\$ 791	85.7%
Unsold Residential Unit Revenue	\$ 14,247,649	\$ -	\$ 14,247,649	\$ 678,459	\$ 1,029	11.2%
Sold Parking Revenue	\$ 6,279,000	\$ -	\$ 6,279,000	\$ 30,779	N/A	4.9%
Unsold Parking Revenue	\$ 919,000	\$ -	\$ 919,000	\$ 30,633	N/A	0.7%
Closing Recoveries	\$ 6,747,738	\$ -	\$ 6,747,738	\$ 28,836	\$ 37	5.3%
Gross Revenue	\$ 137,695,257	\$ -	\$ 137,695,257	\$ 588,441	\$ 904	107.8%
Less: HST	\$ 9,921,250	\$ -	\$ 9,921,250	\$ 42,399	\$ 65	8.1%
Net Revenue	\$ 127,774,007		\$ 127,774,007	\$ 546,043	\$ 839	100.0%
Allocated Land Cost	\$ 7,870,614	\$ -	\$ 7,870,614	\$ 33,635	\$ 43	6.2%
Appraisal Surplus	\$ 9,029,386	\$ -	\$ 9,029,386	\$ 38,587	\$ 49	7.1%
Total Land Cost	\$ 16,900,000	\$ -	\$ 16,900,000	\$ 72,222	\$ 92	13.2%
Cost of Construction	\$ 67,324,119	\$ (254,374)	\$ 67,069,745	\$ 286,623	\$ 364	52.5%
Construction Contingency	\$ 2,072,182	\$ 4,374	\$ 2,076,556	\$ 8,874	\$ 11	1.6%
Construction Management	\$ 1,461,064	\$ 3,000	\$ 1,464,064	\$ 6,257	\$ 8	1.1%
Construction Costs	\$ 70,857,365	\$ (247,000)	\$ 70,610,365	\$ 301,754	\$ 383	55.3%
Sales Commissions	\$ 4,888,257	\$ (51,075)	\$ 4,837,182	\$ 20,672	\$ 26	3.8%
Marketing and Advertising	\$ 150,000	\$ -	\$ 150,000	\$ 641	\$ 1	0.1%
Selling Costs	\$ 5,038,257	\$ (51,075)	\$ 4,987,182	\$ 21,313	\$ 27	3.9%
Development Charges	\$ 9,455,495	\$ -	\$ 9,455,495	\$ 40,408	\$ 51	7.4%
Depositor Interest	\$ -	\$ 762,319	\$ 762,319	\$ 3,258	\$ 4	0.6%
DC Increases	\$ -	\$ -	\$ -	\$ -	\$ -	0.0%
Parkland Dedication	\$ 1,000,000	\$ -	\$ 1,000,000	\$ 4,274	\$ 5	0.8%
Consultants	\$ 1,840,924	\$ 78,004	\$ 1,918,928	\$ 8,201	\$ 10	1.5%
Occupancy Income	\$ (1,810,424)	\$ 365,024	\$ (1,445,400)	\$ (6,177)	\$ (8)	-1.1%
Other Soft Costs	\$ 2,357,185	\$ (42,014)	\$ 2,315,171	\$ 9,894	\$ 13	1.8%
Soft Cost Contingency	\$ 228,445	\$ (124,179)	\$ 104,266	\$ 446	\$ 1	0.1%
Soft Costs	\$ 13,071,625	\$ 1,039,154	\$ 14,110,779	\$ 60,302	\$ 77	11.0%
Construction Loan Interest	\$ 10,198,748	\$ (228,760)	\$ 9,969,988	\$ 42,607	\$ 54	7.8%
Construction Loan Fee	\$ 845,550	\$ 585,277	\$ 1,430,827	\$ 6,115	\$ 8	1.1%
Total Project Costs	\$ 116,911,545	\$ 1,097,596	\$ 118,009,141	\$ 504,313	\$ 641	92.4%
Potential Project Profit	\$ 10,862,462	\$ (1,097,596)	\$ 9,764,866	\$ 41,730	\$ 53	7.6%

Amendment Letter

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

June 19, 2022

Amended Financing Program:

	Last Amendment	Variance	Amended Deal	Per Unit	P.S.F	%
MCAP Construction Loan	\$83,611,141	\$0	\$83,611,141	\$357,313	\$549	70.9%
Purchaser Deposits	\$17,271,939	\$0	\$17,271,939	\$73,812	\$113	14.6%
Deferred Costs	\$5,692,898	\$762,319	\$6,455,217	\$27,586	\$42	5.5%
Additional Cash Equity	\$1,306,182	\$335,277	\$1,641,459	\$7,015	\$11	1.4%
Appraisal Surplus	\$9,029,386	\$0	\$9,029,386	\$38,587	\$59	7.7%
Total Source of Funds	\$116,911,545	\$1,097,596	\$118,009,141	\$504,313	\$775	100%

If you are in agreement with the foregoing terms and conditions, please indicate by signing and returning one a copy of this Amendment to the Lender via the email address ryan.toppie@mcap.com provided below within 10 business days from the date of this Amendment.

Yours truly,

MCAP FINANCIAL CORPORATION



Ryan Toppie
Senior Director



Bruno Iacovetta
Managing Director

Amendment Letter

Vandyk-Backyard Kings Mill Limited: Vandyk Communities "Kings Mill Condos"

June 19, 2022

Borrower and Guarantor hereby accepts the terms and conditions of the above-mentioned Commitment, agree to be responsible for all fees and disbursements payable in accordance with provisions of this Commitment and authorize the credit checks contemplated herein.

ACCEPTANCE

I/WE HEREBY accept the terms and conditions as stated herein. By signing this Commitment Letter, Borrower acknowledges that this loan is solely for its own benefit, and not for the benefit of any third party, except as specifically disclosed herein.

DATED AT 26, this 26th day of June, 2023.

Vandyk-Backyard Kings Mill Limited

John Vandyk
Per: John Vandyk
I have the authority to bind the corporation

Per:
I have the authority to bind the corporation

Guarantors:

Vandyk-Backyard Humberside Limited

John Vandyk
Per: John Vandyk
I have the authority to bind the corporation

Per:
I have the authority to bind the corporation

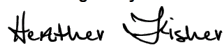
[Signature]
Witness

John Vandyk
John Vandyk

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This is Exhibit "G" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

COMMITMENT LETTER AMENDING AGREEMENT NO. 4

BETWEEN

VANDYK-BACKYARD KINGS MILL LIMITED

as borrower

– AND –

JOHN VANDYK

as guarantor

– AND –

VANDYK-BACKYARD HUMBERSIDE LIMITED

as guarantor

– AND –

MCAP

as lender

DATED AS OF SEPTEMBER 12, 2023

COMMITMENT LETTER AMENDING AGREEMENT NO. 4

THIS AGREEMENT is dated September 12, 2023.

RECITALS:

- A. MCAP, as lender (the “**Lender**”), Vandyk-Backyard Kings Mill Limited, as borrower (the “**Borrower**”), John Vandyk, as guarantor (the “**Personal Guarantor**”), and Vandyk-Backyard Humberside Limited, as guarantor (the “**Corporate Guarantor**”, collectively with the Personal Guarantor, the “**Guarantors**”) entered into a commitment letter dated April 28, 2020 (the “**Original Commitment Letter**”), as amended by an amendment dated August 18, 2020 (“**Amendment No. 1**”), an amendment dated December 13, 2022 (“**Amendment No. 2**”), and an amended dated June 19, 2023 (the “**Amendment No. 3**”) (as amended, restated, supplemented and / or modified from time to time, the “**Commitment Letter**”).
- B. Pursuant to the Commitment Letter, the Lender made a non-revolving construction credit facility up to the aggregate amount not exceeding \$83,611,141 [\$79,555,000 + \$4,056,141] together with interest (“**Facility 1**”) and a credit facility to issue letters of credit required for the construction project of up to the aggregate amount not exceeding \$4,000,000, together with interest (“**Facility 2**”) (Facility 1 and Facility 2, collectively the “**Loan**”) available to the Borrower to assist in the construction of a 234 unit condominium building (the “**Project**”);
- C. In connection with the Commitment Letter, the Borrower granted to the Lender, a first charge / mortgage (the “**Charge / Mortgage**”) in the principal amount of \$104,500,000 against the Project, as defined in the Commitment Letter, in relation to the lands and construction project at the address municipally known as 15 Neighbourhood Ln, Etobicoke, Ontario (the “**Real Property**”), and the further security described in Schedule “A” (together with the Charge / Mortgage, the “**Security**”).
- D. In connection with the Original Commitment Letter, the Personal Guarantor executed a personal guarantee dated July 7, 2020 in favour of the Lender in the amount of \$40,000,000 plus interest and expenses (the “**Original Personal Guarantee**”) and the Corporate Guarantor executed an unlimited guarantee, guaranteeing payment to the Lender of the Indebtedness, defined below, in full and an assignment and postponement of claim dated July 7, 2020 (the “**Corporate Guarantee**”, collectively, the “**Guarantees**”). The Original Personal Guarantee was subsequently increased to \$43,000,000 pursuant to the terms of Amendment No. 2 and was executed on January 10, 2023 (the “**Personal Guarantee**”).
- E. The Commitment Letter, the Security, the Guarantees, and all other security, undertakings and other documents entered into, or delivered by the Borrower or the Guarantors, in connection with or pursuant to the Commitment Letter, are collectively referred to herein as the “**Credit Documents**”.
- F. Amendment No. 3 contained certain conditions precedent to further funding under the Loan (the “**Amending Conditions**”). The Borrower failed to satisfy the Amending Conditions.
- G. On November 26, 2020, the Lender made the first advance under the Commitment Letter. Facility 1 of the Commitment Letter matured on August 1, 2023 (the “**Maturity Date**”). As of the Maturity Date, the Borrower was indebted under Facility 1 and Facility 2 to the Lender in the amount of \$36,955,065.20 plus legal fees and disbursements of Lender’s counsel, which the Borrower remains liable for in full (the aggregate amount owing by the Borrower to the

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Lender, including all fees and disbursements, from time to time is hereafter referred to as the “**Indebtedness**”).

- H. The Indebtedness became due and payable as of the Maturity Date. The Borrower did not, and has not, repaid the Indebtedness.
- I. The Lender has not waived any right and entitlement to the full and complete repayment of the outstanding Indebtedness, nor shall it be considered, through acquiescence or implied agreement, to have extended the term of the loan.
- J. Pursuant to the Commitment Letter, the Lender appointed CB Ross Partners as the Cost Consultant with respect to the Project pursuant to an engagement letter dated June 10, 2020, as amended on June 26, 2023.
- K. A construction vendor has registered construction liens on title to the Real Property, as follows (collectively, the “**Construction Liens**”):
 - a. on August 25, 2023, Dircam Electric Limited registered a construction lien on title to the Real Property as Instrument No. AT6407063; and
 - b. on August 29, 2023, Dircam Electric Limited registered a construction lien on title to the Real Property as Instrument No. AT6048162.
- L. The Lender has exercised its option under the Credit Documents to not be required to make any further advances until funds sufficient to cover the Construction Liens has been deposited with the Lender or until such time as the Construction Liens have been discharged.
- M. The Borrower is in default under the Commitment Letter for, among other things, having (collectively, the “**Existing Defaults**”):
 - a. failed to repay the loan upon the Maturity Date;
 - b. failed to use funds advanced under Credit Facility for the purpose of completing the construction of the Project and no other purpose;
 - c. failed to vacate construction liens registered against the Project, as set out in Recital K in breach of section 6 of the Additional Provisions of the Registered Charge and Item 22 of the Commitment Letter, Other Conditions.
 - d. failed to inject additional equity into the Project once cost overruns were identified and presented to the Borrower;
 - e. failed to pay invoices issued by Westmount Guarantee Services Inc. totaling \$133,667 representing insurance premiums due and owing under the Borrower’s Excess Deposit Insurance policy;
 - f. delivering a false Certificate of Advance by Richard Ma, an authorized signing officer of the Borrower declaring that all funds advanced to the Borrower were used in the Project and paid to the parties for whom they were directed in payment of goods and services delivered and provided to the Project and/or fees incurred in connection with the Project;

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- g. failing to pay property taxes for the months of July and August, and September;
 - h. there has been a material adverse change in the financial condition of the Borrower and the Guarantors, as evidenced, *inter alia*, by the defaults listed in subsections a. to f. above.
- N. The Existing Defaults exist and are continuing. The Lender has not waived or agreed to forbear in respect of the Existing Defaults.
- O. On July 24, 2023, Windsor Private Capital (“WPC”) provided a draft Letter of Intent to the Borrower (the “WPC LOI”), which provided for mezzanine financing to the Borrower in the amount of \$7,000,000, subordinated to funds advanced by MCAP under the Commitment Letter (the “WPC Loan”). The WPC LOI calculated net proceeds of approximately \$5,880,000 (the “Net Proceeds”).
- P. As of September 8, 2023, the Indebtedness, was \$37,284,361.58 plus legal fees and disbursements of Lender’s counsel which the Borrower remains liable for in full. Attached as Schedule “B” is a payout statement setting out the Indebtedness as at September 8, 2023 (the “September Payout Statement”).
- Q. Capitalized terms used in this Commitment Letter Amending Agreement No. 4 (“Amendment No. 4” or the “Amendment”) and not otherwise defined have the meanings ascribed to them in the Commitment Letter.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Commitment Letter as follows:

Acknowledgements, Agreements and Representations

1. The Borrower and the Guarantors acknowledge, agree and represent that:
 - (a) each of Recitals set out above is true and correct;
 - (b) all Credit Documents including the Security are valid, binding and enforceable in accordance with their terms. The Borrower confirms that all assets secured by the Lender’s security are in existence, in the possession and control of the Borrower and have not been transferred, sold, encumbered without the Lender’s consent or impaired in any manner which would deteriorate from or adversely affect the value of same;
 - (c) the Lender has the right and entitlement to the full and complete repayment of the Indebtedness, and has not, through acquiescence or an implied agreement, extended the term of the loan beyond the Maturity Date;
 - (d) the Existing Defaults have occurred and are continuing and, as of the date of this Amendment, no default, other than the Existing Defaults, exists under the Commitment Letter or other Credit Documents;
 - (e) the Lender has not waived or agreed to forbear in respect of the Existing Defaults and is currently entitled to take all steps to enforce the Existing Defaults save and except for the default set out at Recital M(a), insofar as the Maturity Date is expressly amended by this Amendment;

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- (f) as of the date hereof, and subject to the terms of this Amendment No. 4, the Indebtedness is due and payable in full;
- (g) as of the date hereof the Borrower and the Guarantors are liable for those fees and charges set out at Schedule "B", including but not limited to legal fees incurred by the Lender to date, and that to the extent incurred, shall be liable for further fees and charges that may become due under the Commitment Letter or the other Credit Documents;
- (h) neither the Borrower nor the Guarantors have any defences, counterclaims or rights of set-off or reduction to any claims which might be brought by the Lender under the Commitment Letter, or the other Credit Documents and, subject to the terms of this Amendment No. 4, the Lender is entitled to judgment against them in the amount of the Indebtedness;
- (i) all factual information provided by or on behalf of the Borrower or the Guarantors to the Lender for the purposes of or in connection with this Amendment No. 4 or any refinancing contemplated herein is true and accurate in all material respects on the date as of which such information is dated or certified; and
- (j) except as expressly modified in this Amendment No. 4 by specific reference, all of the terms and conditions in this Amendment No. 4 are in addition to and not in substitution for the covenants of the Borrower and the Guarantors in the Commitment Letter or other Credit Documents, which still remain in full force and effect as of the date hereof. The Credit Documents shall henceforth be read and construed in conjunction with this Amendment No. 4.

Amendments

2. The Parties acknowledge and agree that since the conditions contained in the *Amended Conditions* section contained in Amendment No. 3 and other terms contained in Amendment No. 3 have not yet been satisfied, the "**Maturity Date**" (as this term is described in the Original Commitment Letter) shall remain as defined therein, being August 1, 2023. Notwithstanding that the term of the Loan expired on August 1, 2023, the Lender agrees that, if the terms and conditions contained in Section 3 of this Amendment No. 4 are fully complied with within the time frames provided for therein, then the Maturity Date of the Loan shall be extended from August 1, 2023 to November 1, 2024.
3. The Commitment Letter is hereby amended by adding the following terms:
 - (a) Upon the full execution of this Amendment No. 4, the Lender shall appoint BDO Canada Limited ("**BDO**") as Financial Advisor to the Lender (the "**Financial Advisor**") at the Borrower's expense and the Borrower shall provide an Acknowledgement, Agreement and Undertaking with respect to the engagement in a form that is satisfactory to the Lender in its sole discretion;
 - (b) The Borrower and Guarantors will fully cooperate with BDO including, without limitation, promptly providing BDO with access to all information and documents that BDO, in its sole discretion, determines is necessary to fulfill its role, as set out above;

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- (c) In the event that the Lender takes steps to appoint BDO as receiver, whether privately or by court appointment, over the assets, property and undertaking of the Borrower, the Borrower shall not object to such appointment by reason of BDO's engagement or its actions or determinations during such engagement;
- (d) Pending the updated budget, cost-to-complete, accounts payable and cash flow as prepared by BDO and CB Ross and approved by the Lender, at its sole discretion, the Borrower and Guarantors shall, within 7 days present a plan for the resolution of any funding shortfall in form and content satisfactory to the Lender at its sole discretion (the "**Plan**"); and
- (e) Upon the delivery of a satisfactory Plan pursuant to section 3(d), the Lender may determine in its sole discretion the manner in which the WPC funds and the amount required to resolve the funding shortfall are to be disbursed, provided that the disbursement of such funds and any further advances by the Lender, such advances to be considered in the Lender's sole discretion, will be made directly to the trades by either the Lender, its counsel, or BDO, with satisfactory evidence of receipt of funds and confirmation of no deferrals to be provided by each trade; and
- (f) On or before September 29, 2023, the Borrower shall deliver to the Lender a binding Commitment Letter from Windsor Private Capital ("**WPC**") for subordinated mezzanine financing in the amount of no less than \$7,000,000 (the "**WPC Loan**") in a form satisfactory to the Lender in its sole discretion, and which is capable of being, and is reasonably likely to be, successfully funded on or before October 16, 2023;
- (g) On or before the funding of the WPC Loan, WPC shall enter into a Postponement, Subordination and Standstill Agreement with the Lender in a form satisfactory to the Lender in its sole discretion, which shall include, without limitation, the Borrower's and Guarantors' consent to the Lender and WPC releasing information to each other;
- (h) On or before the funding of the WPC Loan, the Borrower shall execute and deliver a Direction to WPC, directing that the net proceeds of the WPC Loan to the Lender; and
- (i) An Amendment Fee of \$150,000, to be payable from the next loan advance;

No Waiver

4. The Lender has not waived, and is not by this Amendment No. 4 or the implementation of this Amendment No. 4 waiving, the Existing Defaults or any additional defaults, whether the same or similar to the Existing Defaults or otherwise or under the Commitment Letter or this Amendment No. 4 (collectively, the "**Defaults**"). For certainty, the Lender has not waived any of its rights or remedies with respect to any Default that has occurred or is continuing as of the date of this Amendment No. 4 or may occur or be continuing after the date of this Amendment No. 4, and no delay on its part in exercising any such rights or remedies, should be construed as a waiver of those rights or remedies.
5. Without limiting the generality of paragraph 4, above, or the Acknowledgements, Agreements and Representations set out in this agreement, the existence, approval or funding of the WPC Loan does not constitute waiver of the Defaults.

General

6. This Amendment No. 4 is an amendment to the Commitment Letter. Unless the context of this Amendment otherwise requires, the Commitment Letter and this Amendment shall be read together and shall have effect as if the provisions of the Commitment Letter and this Amendment were contained in one agreement. The term "Agreement" when used in this Amendment No. 4 means the Commitment Letter as amended, supplemented or modified from time to time.
7. The Commitment Letter and the other Credit Documents, as changed, altered, amended or modified by this Amendment No. 4, are and shall continue in full force and effect and are hereby ratified and confirmed and the rights and obligations of all parties hereunder and thereunder shall not be affected or prejudiced in any manner except as specifically provided for herein.
8. The Borrower and Guarantors will, at their own cost, provide, execute and/or deliver any further or additional documents, assurances, undertakings and information whether provided for in this Amendment No. 4, the Commitment Letter, and any other Credit Documents or otherwise, that the Lender may reasonably require to fully effectuate the intent of this Amendment No. 4.
9. The acknowledgements, representations, warranties and covenants of the Borrower and Guarantors contained in this Agreement shall survive the execution and delivery of this Agreement and shall remain in effect, notwithstanding the termination of this Amendment No. 4.
10. Any notice or communication to be delivered in connection with this Amendment No. 4 shall be delivered in accordance with the Commitment Letter.
11. Each Section of this Amendment No. 4 is distinct and severable. If any Section of this Amendment, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect:
 - (a) the legality, validity or enforceability of the remaining Sections of this Amendment No. 4, in whole or in part; or
 - (b) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
12. This Amendment No. 4 has been reviewed by each party's professional advisors, and revised during the course of negotiations between the parties. Each party acknowledges that this Amendment No. 4 is the product of their joint efforts, that it expresses their agreement, and that, if there is any ambiguity in any of its provisions, that provision should not be interpreted in favour of any of the parties.
13. This Amendment No. 4 may be executed and delivered by the parties in one or more counterparts, each of which will be an original, and each of which may be delivered by facsimile, e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.

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14. The Borrower and the Guarantors agree to fully indemnify the Lender for all costs including, without limiting the generality of the foregoing, all actual present and future legal, Financial Advisor and agent fees and disbursements incurred by the Lender in respect of or in any way related to the Borrower or the Guarantors including, without limitation, the Lender's legal fees in connection with the preparation and enforcement of this Amendment No. 4. The Borrower and the Guarantors each specifically waive any and all rights they may have to assess any of the legal or agent fees previously paid or payable by the Lender to its solicitors or payable to its solicitors or agents in connection with or in any way related to the Borrower or the Guarantor up to the date of this Amendment No. 4 whether such right of assessment arises pursuant to the *Solicitors Act* (Ontario) or under any other law or statute.
15. In consideration of the extension of the Maturity Date to November 1, 2024, each of the Borrower and each Guarantor, on their own behalf and on behalf of their respective successors, assigns, and other legal representatives, absolutely, unconditionally and irrevocably releases MCAP, and its present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, legal counsel, consultants, employees, agents and other representatives, their successors and assigns and those for whom MCAP acts as a trustee, such as by way of example, syndicate lenders (all of which are referred to collectively as the "**Releasees**" and individually as a "**Releasee**"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defences, rights of set-off, demands and liabilities (individually, a "**Claim**" and collectively, "**Claims**") known or unknown, both at law such and in equity, that the Borrower, Guarantors, or any of their respective successors, assigns, or other legal representatives may now or later have or claim against any of the Releasees by reason of any circumstance, action, cause or thing which arises at any time, including for or on account of, or in relation to, or in any way in connection with, the Commitment Letter and the continuing availability of credit under the Credit Facilities. Each of the Borrower and each Guarantor understands, acknowledges and agrees that this release may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of this release. Each of the Borrower and each Guarantor further agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may later be discovered will affect in any manner the final, absolute and unconditional nature of the release set out in this paragraph. The indemnity contained in this section 15 in no way amends, derogates or restricts any other indemnities given by the Borrower and the Guarantors to the Releasees as otherwise provided for in Security.
16. This amendment is governed by the laws of the Province of Ontario and the laws of Canada applicable therein. Time is of the essence in all respects in connection with this Amendment No 4.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Each of the parties have executed and delivered this Agreement as of the date first written above.

MCAP

Per Bruno Iacovetta
Name: Bruno Iacovetta
Title: Managing Director

Per Michael Misener
Name: Michael Misener
Title: Senior Director, Investment Management

I/We have authority to bind the Corporation.

VANDYK-BACKYARD KINGS MILL LIMITED

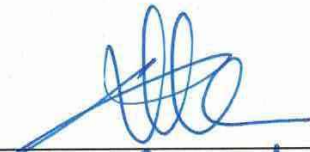
Per _____
Name: *John Vandyke*
Title: *CEO*

Per _____
Name:
Title:

I/We have authority to bind the Corporation.

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WITNESS: Richard Ma


JOHN VANDYK

R

VANDYK-BACKYARD KINGS MILL LIMITED

Per _____
Name: *John Vandyke*
Title: *CEO*

Per _____
Name: *[Signature]*
Title:

I/We have authority to bind the Corporation.

K

SCHEDULE "A"

SECURITY

- A. Mortgage with a principal amount of \$104,500,000 granting a first fixed charge against the Project and an Assignment of Rents therefrom;
- B. The personal guarantee of John Vandyk in the amount of \$43,000,000 plus interest and expenses and the unlimited corporate guarantee of Vandyk-Backyard Humberside Limited plus interest and expenses and an assignment and postponement of claims by the Guarantor and all shareholders of the Borrower relating to any claims against the Borrower;
- C. Joint and several covenants from the Borrower and Guarantors to fund any and **all** cost overruns in excess of the various components of the Project Budget as set out in the Financing Program as and when such overruns occur and prior to any further funding by the Lender. In addition, the Borrower and Guarantor covenant to continue construction and complete the Project once construction has begun, in accordance with the plans approved by the Lender;
- D. General Security Agreement registered under the *Personal Property Security Act* Ontario granting a first general assignment of:
- Book Debts, Rents and Leases of the Borrower in respect to the Project.
 - Agreements of Purchase and Sale inclusive of Purchasers' Deposits which are to be injected into the Project to fund costs and/or held in accordance with the *Real Estate Act*.
 - All present and after acquired personal property of the Borrower.
 - Construction, supply and consulting contracts related to the Project and specific acknowledged, assignments or acceptable tri-party agreements on those contracts specified by the Lender which may include, but not be limited to, the contracts with the Project architect, engineers, Construction Manager and marketing agents.
 - Rights of the Borrower (a) under all building/development permits and the monies paid thereunder, (b) to all plans, specifications and drawings related to the Project.
- E. Hypothecation and Pledge of all the shares of the Borrower;
- F. The Lender shall have received an acceptable insurance binder or cover note, to be followed, within 30 days of the issuance of the binder or cover note, with a certified copy of a policy or policies of insurance, satisfactory to the Lender, containing the requirements of Schedule "A" hereto and including evidence of a Comprehensive General Liability Insurance policy for the Project in an amount of not less than \$10,000,000 per occurrence. The Commercial General Liability Policy must reference the project and MCAP is to be added as an additional insured;
- G. Builder's Risk Insurance, which is satisfactory to the Lender for at least \$68,000,000 which incorporates a standard mortgage clause and which names the Lender as first mortgagee and loss payee;
- H. Indemnification Agreement in respect to any Letters of Credit issued pursuant to Credit Facility 2. Any draws made under the said Letters of Credit shall be converted to direct borrowings under Facility 1;

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- I. In the event the Lender elects to hold on deposit the Borrower's cash (the "**Cash Collateral Account**") or term deposits, GICs or the like, from other financial institutions, to secure the Loan Facility generally or specifically the outstanding Letter of Credit exposure, a specific assignment or charge over the cash, term deposit, GIC, as the case may be, will be required;
- J. First assignment of all condominium voting rights upon registration of the units in the Project, exercisable only in the Event of Default;
- K. Deposit Insurer to provide a Letter of Undertaking confirming that Deposit Insurer shall execute and deliver to the Lender, a free partial discharge of its Mortgage in respect of any condominium unit comprising part of the Project, together with its appurtenant common interests, on or before the final closing of the unit sale transaction between the Borrower and the purchaser of any such unit, with payments by the Borrower to Lender as described under the Partial Discharge Section. The Borrower shall be responsible for all legal costs required for the preparation of the requested discharge;
- L. Postponement Agreement with an acceptable Deposit Insurer, regarding injection of purchaser deposits and security to be taken. It is acknowledged that the Deposit Insurer will require a first charge on purchaser deposits, however, any mortgage security will be fully postponed. In addition, the Deposit Insurer agrees to provide free partial discharges in respect to the units in the Project regardless of default. The said postponement shall also confirm that Deposit Insurer will subordinate to all additional advances which may be required to fund any cost overruns over and above the authorized facilities;
- M. A Beneficial Owners ("**BO**") Agreement wherein the BO directs the registered owner to provide security to the Lender and consents to the same;
- N. Negative Pledge by Borrower and Guarantors to not repay any shareholder loans, redeem shares, pay out dividends or increase compensation to principals of Borrower or Guarantor until the Loan Facility has been fully repaid;
- O. Such other and further security and documentation as may be required by the Lender or its counsel to complete and perfect the Security; and
- P. All other security granted by the Borrower and the Guarantors to the Lender not otherwise listed above.

All capitalized terms that are not otherwise defined in this Amendment shall be defined as provided for in the Original Commitment Letter.

SCHEDULE "B"
SEPTEMBER PAYOUT STATEMENT

As at September 8, 2023



September 8, 2023

Cowlings WLG (Canada) LLP
1 First Canadian Place, 100 King Street West, Suite 1600
Toronto, Ontario
M5X 1G5

200 King Street West, Suite 400
Toronto, Ontario, M5H 3T4
Tel 416 598-2665

1 800 387-4405
www.mcap.com

Attention to: Susan Rosen

Payout Date: September 8, 2023

INFORMATION STATEMENT	
Mortgage No. 19-6493-T41	This Statement is Valid Until: September 30, 2023
Maturity Date August 1, 2023	Bank Prime Rate: Royal Bank Prime
Borrower Name: Vandyk-Backyard Kings Mill Limited	Margin: RB Prime + 2.00% or min of 5.70%
	Property Address: 15 Neighbourhood Lane, Etobicoke, ON
Principal Balance Outstanding	\$34,330,788.36
Accrued Interest to : <u>September 8, 2023</u>	\$328,823.11
Other Charges:	
Late Interest	\$473.27
Discharge Fees:	\$500.00
Amendment Fee:	\$585,277.00
L/C Fees:	\$0.00
Cash Requirement to Collateralize Letters of Credit:	\$2,038,499.84
Per diem rate of interest: <u>\$ 8,720.85</u>	
Total Amount	\$37,284,361.58
<p>The full principal amount together with interest, fees and any applicable per diem rate of interest must be received in full in order to obtain a discharge of mortgage.</p> <p>The above statement is calculated assuming all payments due up to and including the date of discharge are made under the terms of our contract and honoured by the bank.</p> <p>We request that discharge proceeds be wired or direct deposited into MCAP's account. Funds received after 2:30 PM shall be deemed to have been made and received on the next business day and MCAP Financial Corporation shall be entitled to the additional per diem interest.</p> <p>Direct Deposits or Wired Discharge Funds are to be delivered to the following account:</p> <p>Account Holder: MCAP Financial Corporation 200 King Street West, Suite 400, Toronto, Ontario, M5H 3T4</p> <p>Bank: Bank of Montreal 100 King Street West, Toronto, Ontario, M5X 1A3</p> <p>Bank Number: 001</p> <p>Transit Number: 00022</p> <p>Account Number: 1357-893</p> <p>Swift Number: BOFMCAM2</p> <p>Confirmation from the Borrower or its Counsel of wired or direct deposit of funds must be sent via electronic mail to TOFunding@MCAP.com in order to ensure the application on funds on the appropriate business date. Confirmations are reference the loan number and include information regarding the project name, wired amount, deposit slip and lot/unit closing(s).</p> <p>Any legal and/or other costs of providing the discharge are in addition to the amount stipulated in the above statement and shall be borne by the Borrower.</p> <p>This statement is subject to changes to the Bench Mark Rate. Changes to the Bench Mark Rate may result in additional funds due at the time of closing. Kindly consult with the undersigned to ensure the validity of the total discharge amount due.</p>	

Prepared By: Katie Lee
Katie Lee
Funding Manager

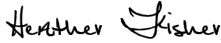
Authorized by: Phillip Frank
Phillip Frank
Sr. Director

E. & O.E.

F

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This is Exhibit "H" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

LRO # 80 **Charge/Mortgage**Received as **AT5581120** on 2020 11 26 at 09:05

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 9

Properties

PIN 07500 - 0082 LT **Interest/Estate** Fee Simple

Description PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN 66R28992; S/T EASEMENT IN FAVOUR OF PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865050; T/W EASEMENT OVER PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865049 (PARTIALLY RELEASED BY AT5347793), AT4865050 & AT4865051; S/T INTEREST OF THE CITY OF TORONTO AS IN EB186721; TOGETHER WITH A RIGHT OF WAY OVER PTS 7,8,9 66R29993 AS IN AT4478658; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN AT5347804; SUBJECT TO AN EASEMENT IN GROSS OVER PART 7, 66R28992 AS IN AT5347808; SUBJECT TO AN EASEMENT IN GROSS OVER PART 6, 66R28992 AS IN AT5347812; SUBJECT TO AN EASEMENT AS IN AT5367415; CITY OF TORONTO

Address TORONTO

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name VANDYK - BACKYARD KINGS MILL LIMITED

Address for Service 1944 Fowler Drive
Mississauga, Ontario L5K 0A1

I, Richard Ma, Authorized Signing Officer, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Chargee(s)**Capacity****Share**

Name MCAP FINANCIAL CORPORATION

Address for Service 200 King Street West, Suite 400
Toronto, ON M5H 3T4

Statements

Schedule: See Schedules

Provisions

Principal \$104,500,000.00 **Currency** CDN

Calculation Period monthly, not in advance

Balance Due Date ON DEMAND

Interest Rate see Schedule

Payments

Interest Adjustment Date

Payment Date interest only, on the 1st day of each month

First Payment Date

Last Payment Date

Standard Charge Terms 8629

Insurance Amount Full insurable value

Guarantor

Signed By

Avrom Warren Brown 1 Adelaide Street E., Suite 801 acting for Signed 2020 11 26
Toronto
M5C 2V9 Chargor(s)

Tel 416-869-1234

Fax 416-869-0547

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

GARFINKLE, BIDERMAN LLP 1 Adelaide Street E., Suite 801 2020 11 26
Toronto
M5C 2V9

Tel 416-869-1234

Fax 416-869-0547

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

LRO # 80 **Charge/Mortgage**

Received as AT5581120 on 2020 11 26 at 09:05

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 9

Fees/Taxes/Payment

Statutory Registration Fee	\$65.30
Total Paid	\$65.30

File Number

Chargee Client File Number : 9150-084

ADDITIONAL PROVISIONS1. Letter of Commitment

Any reference in this Charge to the Commitment, Commitment Letter or Letter of Commitment shall mean the Commitment Letter referable to this transaction dated April 28, 2020 (and any amendments thereto, if applicable).

This Charge shall secure any and all amounts owing by the Chargor to the Chargee pursuant to the Letter of Commitment.

All provisions of the Letter of Commitment are hereby incorporated into this Charge.

Any default by the Borrower with regard to any provision of the Letter of Commitment shall constitute a default under this Charge.

2. Due on Demand

The amount owing under this Charge shall be repayable on demand.

In the event interest is not paid as and when due, the Chargee may in its sole discretion advance monies on account of principal to the Chargor to be applied to interest owing, or capitalize the amount of interest owing (which capitalization shall not be an advance of funds) but in no event shall any such advance or capitalization by the Chargee obligate the Chargee to make any further advances or capitalizations to be applied to interest or otherwise.

3. Interest Rate

The mortgage shall bear interest at the greater rate of: (i) Royal Bank of Canada Prime rate of interest plus 2.00% per annum, adjusted daily and compounded and payable monthly, not in advance, and (ii) 5.70% per annum, compounded and payable monthly, not in advance.

Interest at the aforesaid rates on the amounts advanced from time to time shall be payable on the first day of each and every month.

4. Default

In addition to any other Default Clauses set out in this Charge, or in the Standard Charge Terms referred to herein, the monies hereby secured, together with interest thereon as aforesaid, shall become payable and the security hereby constituted shall become enforceable immediately upon demand by the Chargee or the occurrence or happening of any of the following events ("Event(s) of Default"):

- (a) the Chargor makes default in the payment of the principal, interest or other monies hereby secured or any principal or interest payment and other monies owed by it to the Chargee whether secured by this Charge or not;
- (b) the Chargor makes material default in the observance or performance of any written covenant or undertaking heretofore or hereafter given by it to the Chargee, whether contained herein or not and pertaining to the assets or the financial condition of the Chargor and such default has not been cured within fifteen (15) days of written notice thereof being delivered to the Chargor;
- (c) if any statement, information (oral or written) or representation heretofore or hereafter made or given by or on behalf of the Chargor to the Chargee and pertaining to the assets or the financial condition of the Chargor, and whether contained herein or not is false, inaccurate and/or misleading in any material respect;
- (d) an order is made or an effective resolution passed for the winding-up, liquidation, amalgamation or reorganization of the Chargor, or a petition is filed for the winding up of the Chargor;
- (e) the Chargor becomes insolvent or makes a general assignment for the benefit of its creditors or otherwise acknowledges its insolvency; or the Chargor makes a bulk sale of its assets; or a bankruptcy petition or receiving order is filed or presented against the Chargor;

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- (f) any proceedings with respect to the Chargor are commenced under the Companies' Creditors Arrangement Act;
- (g) any execution, sequestration, extent or any other process of any Court becomes enforceable against the Chargor or a distress or analogous process is levied upon the property and assets of the Chargor or any part thereof, which in the opinion of the Chargee is a substantial part, and remains unsatisfied for such period as would permit such property to be sold thereunder, less two (2) business days, provided that such process is not in good faith disputed and, in that event, if the Chargor shall desire to contest such process it shall give security to the Chargee which, in the absolute discretion of the Chargee, shall be deemed sufficient to pay in full the amount claimed in the event it shall be held to be a valid claim;
- (h) the Chargor ceases or threatens to cease to carry on its business or the Chargor commits or threatens to commit any act of bankruptcy or insolvency;
- (i) the property hereby mortgaged and charged or any part thereof, other than sales of lots or units containing fully completed single family dwellings to bona fide purchasers for value, prior approved in writing by the Chargee, are sold by the Chargor or if there is a change in the present effective voting control of the Chargor or a change in the beneficial ownership of the Chargor or the assets or any one of them;
- (j) the monies secured hereby, together with interest thereon shall not be repaid to the Chargee on demand;
- (k) the Chargor makes any default with regard to any provision of the Commitment Letter.

5. Chargee May Remedy Default

If the Chargor should fail to perform any covenant or agreement of the Chargor hereunder, the Chargee may itself perform or cause to be performed such covenant or agreement and all expenses incurred or payments made by the Chargee in so doing, together with interest thereon at the rate set forth herein, shall be added to the indebtedness secured herein and shall be paid by the Chargor and be secured by this Charge together with all other indebtedness secured thereby, provided however that the foregoing shall not in any way be interpreted as an obligation of the Chargee.

6. Construction Liens

Provided also that upon the registration of any construction lien against title to the charged property which is not discharged within a period of ten (10) days from the registration thereof, all monies hereby secured shall, at the option of the Chargee, forthwith become due and payable.

The Chargee may at its option, withhold from any advances for which the Chargor may have qualified, such holdbacks as the Chargee in its sole discretion, considers advisable to protect its position under the provisions of the Construction Act, 1990, so as to secure its priority over any construction liens, until the Chargee is fully satisfied that all construction lien periods have expired and that there are no preserved or perfected liens outstanding. Nothing in this clause shall be construed to make the Chargee an "owner" or "payer" as defined under the Construction Act, 1990, nor shall there be, or be deemed to be, any obligation by the Chargee to retain any holdback which may be required by the said legislation. Any holdback which may be required to be made by the owner or payer shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of the Construction Act, 1990.

7. Construction Loan

Provided that the Chargor and Chargee agree that if this is a construction loan, the following conditions shall apply:

- (a) the Chargor further covenants that all installation of services and construction on the lands hereby secured shall be carried out by reputable contractors with sufficient experience in a project of this nature and size, which contractors must be approved by the Chargee and which approval shall not be unreasonably withheld.

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- (b) that the installation of services and the construction of dwellings on the said lands, once having been commenced, shall be continued in a good and workmanlike manner, with all due diligence and in substantial accordance with the plans and specifications delivered to the Chargee and to the satisfaction of the Municipality and all governmental and regulatory authorities having jurisdiction.
- (c) provided that should the servicing and construction on the said lands cease for any reason whatsoever (strike, material shortages, weather and conditions or circumstances beyond the control of the Chargor excepted), for a period of fifteen (15) consecutive days unless explained to the satisfaction of the Chargee acting reasonably (Saturdays, Sundays and Statutory holidays excepted), then the monies hereby secured, at the option of the Chargee shall immediately become due and payable. In the event that construction does cease, then the Chargee shall have the right, at its sole option, to assume complete control of the servicing and construction of the project on the said lands in such manner and on such terms as it deems advisable. The cost of completion of servicing and construction of the project by the Chargee and all expenses incidental thereto shall be added to the principal amount of the Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Chargee. All costs and expenses, as well as the said management fee shall bear interest at the rate as herein provided for and shall form part of the principal secured hereunder and the Chargee shall have the same rights and remedies with respect to collection of same as it would have with respect to collection of principal and interest hereunder or at law.
- (d) at the option of the Chargee, at all times there shall be a holdback of ten percent (10%) with respect to work already completed.
- (e) all advances which are made from time to time hereunder shall be based on Certificate of the Chargee's agents prepared at the expense of the Chargor, which Certificates shall without limitation certify the value of the work completed and the estimated costs of any uncompleted work and such Certificates shall further certify that such completed construction and/or servicing to the date of such Certificate shall be in accordance with the approved plans and specifications for the said construction and further, in a good and workmanlike manner and in accordance with the permits issued for such servicing and construction and in accordance with all municipal and other governmental requirements of any authority having jurisdiction pertaining to such servicing and construction and there shall be no outstanding work orders or other requirements pertaining to servicing and construction on the said lands. Such Certificates with respect to any values shall not include materials on the site which are not incorporated into the buildings or the services.

8. Environmental

- (a) The following terms have the following meanings in this Section:
 - (i) "Applicable Environmental Laws" means all federal, provincial, municipal and other laws, statutes, regulations, by-laws and codes and all international treaties and agreements, now or hereafter in existence, intended to protect the environment or relating to Hazardous Material (as hereinafter defined), including without limitation the *Environmental Protection Act (Ontario)*, as amended from time to time (the "EPA"), and the *Canadian Environmental Protection Act*, as amended from time to time (the "CEPA"); and
 - (ii) "Hazardous Material" means, collectively, any contaminant (as defined in the EPA), toxic substance (as defined in the CEPA), dangerous goods (as defined in the *Transportation of Dangerous Goods Act (Canada)*, as amended from time to time) or pollutant or any other substance which when released to the natural environment is likely to cause, at some immediate or future time, material harm or degradation to the natural environment or material risk to human health.

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- (b) The Chargor hereby represents and warrants that:
- (i) neither the Chargor nor, to its knowledge, after due enquiry, any other person, firm or corporation (including without limitation any tenant or previous tenant or occupant of the Lands or any part thereof) has ever caused or permitted any Hazardous Material to be placed, held, located or disposed of on, under or at the lands;
 - (ii) the business and assets of the Chargor are in compliance with all Applicable Environmental Laws;
 - (iii) no control order, stop order, minister's order, preventative order or other enforcement action has been threatened or issued or is pending by any governmental agency in respect of the Lands and Applicable Environmental Laws; and
 - (iv) the Chargor has not received notice nor has any knowledge of any action or proceeding, threatened or pending, relating to the existence in, or under the Lands or on the property adjoining the Lands of, or the spilling, discharge or emission on or from the Lands or any such adjoining property of, any Hazardous Material.
- (c) The Chargor covenants that:
- (i) the Chargor will not cause or knowingly permit to occur, a discharge, spillage, uncontrolled loss, seepage or filtration of any Hazardous Material at, upon, under, into or within the Lands or any contiguous real estate or any body or water on or flowing through or contiguous to the Lands;
 - (ii) the Chargor shall, and shall cause any person permitted by the Chargor to use or occupy the Lands or any part thereof, to continue to operate its business and assets located on the Lands in compliance with the Applicable Environmental Laws and shall permit the Chargee to review and copy any records of the Chargor insofar as they relate to the Lands at any time and from time to time to ensure such compliance;
 - (iii) the Chargor will not be involved in operations at or in the Lands which could lead to the imposition on the Chargor of liability under the Applicable Environmental Laws or the issuance of any order under the Applicable Environmental Laws to stop discharging, shut down, clean-up or decommission or the creation of a lien on the Lands under any of the Applicable Environmental Laws;
 - (iv) the Chargor will not knowingly permit any tenant or occupant of the Lands to engage in any activity that could lead to the imposition of liability on such tenant or occupant or the Chargor of liability under the Applicable Environmental Laws or the issuance of any order under the Applicable Environmental Laws to stop discharging, shut down, clean-up or decommission or the creation of a lien on the Lands under any Applicable Environmental Laws;
 - (v) the Chargor shall strictly comply with the requirements of the Applicable Environmental Laws (including, but not limited to obtaining any permits, licenses or similar authorizations to construct, occupy, operate or use the Lands or any fixtures or equipment located thereon by reason of the Applicable Environmental Laws) and shall notify the Chargee promptly in the event of any spill or location of Hazardous Material upon the Lands, and shall promptly forward to the Chargee copies of all orders, notices, permits, applications or other communications and reports in connection with any spill or other matters relating to the Applicable Environmental Laws, as they may affect the Lands;
 - (vi) the Chargor shall remove any Hazardous Material (or if removal is prohibited by law, to take whichever action is required by law) promptly upon discovery at its sole expense;

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- (vii) the Chargor will not install on the Lands, nor knowingly permit to be installed on the Lands, asbestos or any substance containing asbestos deemed hazardous by any Applicable Environmental Law; and
 - (viii) the Chargor will at its own expense carry out such investigations and tests as the Chargee may reasonably require from time to time in connection with environmental matters.
- (d) The Chargor hereby indemnifies and holds harmless the Chargee, its officers, directors, employees, agents, shareholders and any receiver or receiver and manager appointed by or on the application of the Chargee (the "**Indemnified Persons**") from and against and shall reimburse the Chargee for any and all losses, liabilities, claims, damages, costs and expenses, including legal fees and disbursements, suffered, incurred by or assessed against any of the Indemnified Persons whether as holder of the within Charge, as mortgagee in possession, as successor in interest to the Chargor as owner of the Lands by virtue of foreclosure or acceptance of a deed in lieu of foreclosure or otherwise:
- (i) under or on account of the Applicable Environmental Laws, including the assertion of any lien thereunder;
 - (ii) for, with respect to, or as a result of, the presence on or under, or the discharge, emission, spill or disposal from, the Lands or into or upon any land, the atmosphere, or any watercourse, body or water or wetland, of any Hazardous Material where a source of the Hazardous Material is the Lands including, without limitation:
 - a. the costs of defending and/or counterclaiming or claiming over against third parties in respect of any action or matter; and
 - b. any costs, liability or damage arising out of a settlement of any action entered into by the Chargee;
 - (iii) in complying with or otherwise in connection with any order, consent, decree, settlement, judgment or verdict arising from the deposit, storage, disposal, burial, dumping, injecting, spilling, leaking, or other placement or release in, on or from the Lands of any Hazardous Material (including without limitation any order under the Applicable Environmental Laws to clean-up, decommission or pay for any clean-up or decommissioning), whether or not such deposit, storage, disposal, burial, dumping, injecting, spilling, leaking or other placement or release in, on or from the Lands of any Hazardous Material:
 - a. resulted by, through or under the Chargor; or
 - b. occurred with the Chargor's knowledge and consent; or
 - c. occurred before or after the date of this Charge, whether with or without the Chargor's knowledge.

The provisions of this paragraph shall survive foreclosure of this Charge and satisfaction and release of this Charge and satisfaction and repayment of the amount secured hereunder. Any amounts for which the Chargor shall become liable to the Chargee under this paragraph shall, if paid by the Indemnified Person, bear interest from the date of payment at the interest rate stipulated herein and together with such interest shall be secured hereunder.

- (e) In the event of any spill of Hazardous Material affecting the Lands, whether or not the same originated or emanates from the Lands, or if the Chargor fails to comply with any of the requirements of the Applicable Environmental Laws, the Chargee may at its election, but without the obligation so to do, give such

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notices and cause such work to be performed at the Lands and take any and all other actions as the Chargee shall deem necessary or advisable in order to remedy said spill or Hazardous Material or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the interest rate stipulated herein from the date of payment by the Chargee shall be immediately due and payable by the Chargor to the Chargee and until paid shall be added to and become a part of the amount secured hereunder.

9. Letters of Credit

The parties hereto acknowledge and agree that this Charge shall also secure payment by the Chargor to the Chargee of all amounts advanced by the Chargee pursuant to or by way of issuance of any letters of credit, renewals thereof, substitutions therefor and accretions thereto or pursuant to similar instruments issued at the Chargor's request or on its behalf and issued by the Chargee or on behalf of or at the request of or upon the credit of the Chargee and the total amount of such letters of credit shall be deemed to have been advanced and fully secured by this Charge from the date of the issuance of such letters of credit, regardless of when or whether such letters of credit are called upon by the holder(s) thereof. In the event of the enforcement or exercise by the Chargee of any of the remedies or rights provided for in this Charge, the Chargee shall be entitled to retain and shall not be liable to pay or account to the Chargor or any other party in respect of the full amount of any outstanding letters of credit from the proceeds of such enforcement or exercise until such time as the letters of credit have expired, have been cancelled and have been surrendered to the Lender or the issuer(s) thereof.

10. Miscellaneous

The Chargor agrees as follows:

- (a) to maintain the project in good repair and in a state of good operating efficiency;
- (b) to pay taxes, utilities and other operating and maintenance costs and provide evidence thereof to the Chargee;
- (c) to perform all governmental requirements and obligations as required;
- (d) to deliver to the Chargee all reasonable financial information deemed necessary by the Chargee, when requested;
- (e) to comply with all covenants and reporting requirements set out in the Commitment Letter;
- (f) to provide or comply with such other covenants and terms as the Chargee may reasonably require.

11. Amendments to Standard Charge Terms

The Standard Charge Terms No. 8629 referred to in this document were filed by The Mutual Trust Company, and for purposes of this document, any reference in the said Standard Charge Terms to The Mutual Trust Company should be deemed to be replaced by the name of the Chargee.

12. Prepayment Provisions

Provided that this Charge is not in default, the Chargor shall have the right to prepay the amount outstanding in accordance with the provisions of the Letter of Commitment.

13. Restriction on Transfer

In the event of the Chargor selling, transferring or conveying title or its rights to a purchaser, transferee or grantee not approved by the Chargee or in the event of a change in the legal or beneficial ownership of the Property, the Borrower or the Chargor, not approved in writing by the Chargee, then, at the sole option of the Chargee, all monies secured, together with all accrued and unpaid interest thereon and any other amounts due under this Charge shall become due and payable. This restriction shall not prevent the sale of dwelling units to bona fide home Purchasers.

14. Assignment of Condominium Voting Rights

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- 7 -

In the event that the property or any part thereof is or becomes a unit within a Condominium Corporation, the Chargee shall have all rights to vote on all matters relating to the said Condominium Corporation, in the place of and on behalf of the Chargor, and the Chargor hereby assigns unto the Chargee all such voting rights.

In the event that the property or any part thereof is or becomes a Common Element Condominium Corporation, the Chargee shall have all rights to vote on all matters relating to the said Common Element Condominium Corporation in the place of and on behalf of the Chargor, to the extent that the Chargor would have such rights, and the Chargor hereby assigns unto to the Chargee all such voting rights.

15. Subsequent Financing

No financing subsequent to the Chargee's facilities shall be permitted, without the prior written consent of the Chargee.

16. Partial Discharges

The Chargor shall be entitled to partial discharges as set out in the Letter of Commitment upon payment of the partial discharge amounts set out therein, the Chargee's discharge fees as set out therein and upon payment of the Chargee's Solicitor's usual discharge fees.

17. Voting Control

The Chargor agrees that voting control of the Chargor or of any beneficial owner shall not change during the currency of this loan without the prior written consent of the Chargee.

ACKNOWLEDGEMENT

This set of Standard Charge Terms No. 8629 is included in a Charge made by:

VANDYK - BACKYARD;KINGS MILL LIMITED

as Chargor(s)

To:

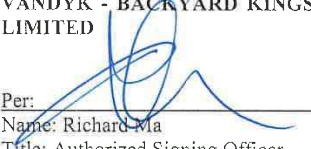
MCAP FINANCIAL CORPORATION

as Chargee(s)

and each Chargor hereby acknowledges receiving a copy of this set of Standard Charge Terms together with a copy of the Mortgage to which they form part before signing the Acknowledgement and Direction.

Dated this 7th day of July, 2020.

VANDYK - BACKYARD KINGS MILL LIMITED

Per: 
Name: Richard Ma
Title: Authorized Signing Officer
I have authority to bind the corporation.

THIS DOCUMENT HAS BEEN RETYPED FROM THE ORIGINAL FOR LEGIBILITY ONLY.
THE ORIGINAL IS REGISTERED AS STATED BELOW.

DIRECTOR OF LAND REGISTRATION
STANDARD CHARGE TERMS
Filing No. 8629 Filing Date: 86/06/10
Page 1 of 16 Pages

LAND REGISTRATION REFORM ACT, 1984
SET OF STANDARD CHARGE TERMS
(Commercial Charge)

Filed By: THE MUTUAL TRUST COMPANY

The following set of Standard Charge Terms shall be deemed to be included in every Charge in which the set is referred to by its filing number, as provided in Section 9 of the Land Registration Reform Act, 1984.

1. STATUTORY COVENANTS

THE IMPLIED COVENANTS deemed to be included in a charge pursuant to Section 7 (1) of the Land Registration Reform Act, 1984 (as varied herein) shall be in addition to, and not in substitution for, the covenants and other provisions set forth in the Charge. In the event of any conflict between any such implied covenants (as varied herein) and any other covenant or provision of the Charge, such covenant or provision as herein contained shall prevail.

2. PROVISO FOR REDEMPTION

PROVIDED this Charge shall be void upon payment of the principal sum herein, in lawful money of Canada, with interest as herein provided and taxes and performance of statute labour and performance of all covenants in this Charge.

3. RELEASE

AND THE said Chargor doth release to the said Chargee all its claims upon the said lands subject to the proviso for redemption herein.

4. ADVANCE OF FUNDS

THE CHARGOR agrees that neither the preparation, execution nor registration of this Charge shall bind the Chargee to advance the monies hereby secured, nor shall the advance of a part of the principal sum herein bind the Chargee to advance any unadvanced portion thereof, but nevertheless the estate hereby charged shall take effect forthwith upon the execution of this Charge by the Chargor, and the expenses of the examination of the title and of this Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum herein not being advanced, the same to be charged hereby upon the said lands, and shall be without demand thereof, payable forthwith with interest at the rate provided for in this Charge, and in default the remedies herein shall be exercisable.

5. CHARGOR'S COVENANTS

THE CHARGOR covenants with the Chargee that the Chargor will pay the principal sum herein and interest and observe the proviso for redemption herein, and will pay as they fall due all taxes, rates and assessments, whether municipal, local, parliamentary or otherwise which now are or may hereafter be imposed, charged or levied upon the said lands and when required by the Chargee, shall transmit the receipts therefor to the Chargee;

THE CHARGOR further covenants with the Chargee that the Chargor will pay all amounts which are payable hereunder or which are capable of being added to the principal sum

DIRECTOR OF LAND REGISTRATION
STANDARD CHARGE TERMS
FILING NO. 8629

PAGE 2

herein pursuant to the provisions of this Charge including, without limiting the generality of the foregoing, all servicing or other fees, costs or charges provided for herein; all insurance premiums; the amount paid for the supply of any fuel or utilities to the said lands; all costs, commissions, fees and disbursements incurred by the Chargee in constructing, inspecting, appraising, selling, managing, repairing or maintaining the said lands; all costs incurred by the Chargee, including legal costs on a solicitor and his own client basis, with respect to the Charge or the enforcement thereof or incurred by the Chargee arising out of, or in any way related to this Charge; any amounts paid by the Chargee on account of any encumbrance, lien or charge against the said lands and any and all costs incurred by the Chargee arising out of, or in any way related to, the Chargee realizing on its security by sale or lease or otherwise;

AND THAT THE CHARGOR has a good title in fee simple to the said lands and has good right, full power and lawful and absolute authority to charge the said lands and to give this Charge to the Chargee upon the covenants contained in this Charge;

AND THAT THE CHARGOR has not done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, or any part or parcel thereof, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate or otherwise, except as the records of the land registry office disclose;

AND THAT THE CHARGOR will execute such further assurances of the said lands as may be requisite;

AND THAT THE CHARGOR will produce the title deeds and allow copies to be made at the expense of the Chargor.

6. INSURANCE

AND THAT the said Chargor will insure and keep insured during the term of this Charge the buildings on the said lands (now or hereafter erected) on an all-risks basis in an amount of not less than the greater of the full replacement value of the buildings located thereon from time to time, or the principal money herein, with no co-insurance provisions and with the Chargee's standard mortgage clause forming part of such insurance policy.

The Chargor shall carry such liability, rental, boiler, plate glass and other insurance coverage as is required by the Chargee to be placed with such insurance companies and in such amounts and in such form as may be acceptable to the Chargee. All such policies shall provide for loss payable to the Chargee and contain such additional clauses and provisions as the Chargee may require. An original of all insurance policies and endorsements from the insurer to the effect that coverage has been initiated and/or extended for a minimum period of at least one year and that all premiums with respect to such term of such coverage have been paid for in full, shall be produced to the Chargee prior to any advance and at least thirty (30) days before expiration of any term of any such respective policy, failing which the Chargee may provide therefor and charge the premium paid therefor and interest thereon at the aforesaid rate to the Chargor and any amounts so paid by the Chargee shall be payable forthwith to the Chargee and shall also be a charge upon the said lands secured by this Charge. It is further agreed that the Chargee may at any time require any insurance on the said buildings to be cancelled and new insurance effected with a company to be named by it, and also may, of its own accord, effect or maintain any insurance herein provided for, and any amount paid by the Chargee therefor shall be forthwith payable to it, together with interest at the rate aforesaid by the Chargor (together with any costs of the Chargee as herein set out), and shall be a charge upon the said lands and secured by this Charge.

IN THE event that the evidence of continuation of such insurance as herein required has not been delivered to the Chargee within the required time, the Chargee shall be entitled to a servicing fee for each written inquiry which the Chargee shall make to the insurer or

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the Chargor pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenants). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the said lands, the Chargee, in addition to the aforementioned servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

IN THE EVENT of any loss or damage the Chargor shall forthwith notify the Chargee in writing and notwithstanding any other provision to the contrary, statutory or otherwise, in the event of any monies becoming payable pursuant to any insurance policy herein required, the Chargee may, at its option, require the said monies to be applied by the Chargor in making good the loss or damage in respect of which the money is received, or in the alternative, may require that any or all of the monies so received be applied in or towards satisfaction of any or all of the indebtedness hereby secured whether or not such indebtedness has become due. No damage may be repaired nor any reconstruction effected without the approval in writing of the Chargee in any event.

THE CHARGOR, upon demand, will transfer all policies of insurance provided for herein and the indemnity which may become due therefrom to the Chargee. The Chargee shall have a lien for the indebtedness hereby secured on all the said insurance proceeds and policies, and may elect to have these insurance monies applied as it may deem appropriate, including payment of monies secured hereby, whether due or not, but the Chargee shall not be bound to accept the said monies in payment of any principal not yet due.

7. UTILITIES

THE CHARGOR covenants that he will pay all utility and fuel charges related to the said lands as and when they are due and that he will not allow or cause the supply of utilities or fuel to the said lands to be interrupted or discontinued and that, if the supply of fuel oil or utilities is interrupted or discontinued, he will take all steps that are necessary to ensure that the supply of utilities or fuel is restored forthwith. It is specifically agreed that the failure to pay all fuel and utility charges as and when they are due or the interruption or discontinuing of the supply of fuel or utilities to the said lands shall constitute a default by the Chargor within the meaning of this Charge and in addition to all other remedies provided for herein, the principal sum of the Charge shall, at the sole option of the Chargee forthwith become due and payable.

8. TAXES

WITH respect to municipal taxes, school taxes and local improvement rates and charges (herein referred to as "taxes") chargeable against the said lands, the Chargor covenants and agrees with the Chargee that:

- (a) The Chargee may deduct from any advance of the monies secured by this Charge an amount sufficient to pay the taxes which have become due and payable during any calendar year.
- (b) The Chargee may at its sole option estimate the amount of the taxes chargeable against the said lands and payable in each year and the Chargor shall forthwith upon demand of the Chargee pay to the Chargee one-twelfth (1/12) of the estimated annual amount of such taxes on the first 1st day of each and every month during the term of this Charge commencing with the 1st day of the first full month of the term of this Charge. The Chargee may at its option apply such payments to the taxes so long as the Chargor is not in default under any covenant or agreement contained in this Charge, but nothing herein contained shall obligate the Chargee to apply such payments on account of taxes more often than yearly. Provided however, that if the Chargor shall pay any sum or sums to the Chargee to apply on account of

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taxes, and if before such payments have been so applied by the Chargee, there shall be default by the Chargor in respect of any payment of principal or interest as herein provided, the Chargee may at its option apply such sum or sums in or towards payment of the principal and/or interest in default. If the Chargor desires to take advantage of any discounts or avoid any penalties in connection with the payment of taxes, the Chargor may pay to the Chargee such additional amounts as are required for that purpose.

- (c) In the event that the taxes actually charged in a calendar year, together with any interest and penalties thereon exceed the amount estimated by the Chargee as aforesaid, the Chargor shall pay to the Chargee, on demand, the amount required to make up the deficiency. The Chargee may at its option, pay any of the taxes when payable, either before or after they are due, without notice, or may make advances therefor in excess of the then amount of credit held by the Chargee for the said taxes. Any excess amount advanced by the Chargee shall be secured as an additional principal sum under this Charge and shall bear interest at the rate as provided for in this Charge until repaid by the Chargor.
- (d) The Chargor shall transmit to the Chargee the assessment notices, tax bills and other notices affecting the imposition of taxes upon the said lands forthwith after receipt.
- (e) The Chargor shall pay to the Chargee, in addition to any other amounts required to be paid hereunder, the amount required by the Chargee in its sole discretion for a reserve on account of future tax liabilities.
- (f) In no event shall the Chargee be liable for any interest on any amount paid to it as hereinbefore required and the monies so received may be held with its own funds pending payment or application thereof as hereinbefore provided; provided that in the event that the Chargee does not utilize the funds received on account of taxes in any calendar year, such amount or amounts may be held by the Chargee on account of any pre-estimate of taxes required for the next succeeding calendar year, or at the Chargee's option the Chargee may repay such amount to the Chargor without any interest.
- (g) The Chargor shall in all instances be responsible for the payment of any and all penalties resulting from any late payment of current tax instalments or any arrears of taxes, and at no time shall such penalty be the responsibility of the Chargee.
- (h) In the event the Chargee does not collect payments on account of taxes as aforesaid, the Chargor hereby covenants and agrees with the Chargee to deliver to the Chargee on or before December 31st in each calendar year, written evidence from the taxing authority having jurisdiction with respect to the municipal realty taxes levied and assessed against the said lands, such evidence to be to the effect that all taxes for the then current calendar year and any preceding calendar years have been paid in full. In the event of the failure of the Chargor to comply with this covenant as aforesaid the Chargee shall be entitled to charge a servicing fee for each written enquiry directed to such taxing authority or the Chargor, for the purpose of ascertaining the status of the tax account pertaining to the said lands, together with any costs payable to the said taxing authority for such information.

9. COMPLIANCE WITH LAWS AND REGULATIONS

THE CHARGOR shall promptly observe, perform, execute and comply with all laws, rules, requirements, orders, directions, ordinances, and regulations of every governmental

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authority or agency concerning the said lands and further agrees at its cost and expense to take any and all steps or make any improvements or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time hereafter by any such present or future laws, rules, requirements, orders, directions, ordinances or regulations.

10. REPAIR

THE CHARGOR will keep the said lands including the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof, and the Chargee may, whenever it deems necessary, enter upon and inspect the said lands, and the cost of such inspection shall be added to the indebtedness secured hereunder, and if the Chargor neglects to keep the said lands in good condition and repair, or commit or permit any act of waste on the said lands (as to which the Chargee shall be sole judge) or makes default as to any of the covenants or provisos herein contained, the principal sum herein shall, at the option of the Chargee, forthwith become due and payable, and in default of payment thereof with interest as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given may be exercised forthwith and the Chargee may make such repairs as it deems necessary, and the cost thereof with interest and the rate aforesaid shall be added to the monies hereby secured and shall be payable forthwith and be a charge upon the said lands prior to all claims thereon subsequent to this Charge.

11. ALTERATIONS OR ADDITIONS

THE CHARGOR will not make or permit to be made any alterations or additions to the said lands without the prior written consent of the Chargee which consent may be withheld in the Chargee's sole discretion or may be given only subject to compliance with such terms and conditions at the cost of the Chargor as the Chargee may impose.

12. LANDS INCLUDE ALL ADDITIONS

THE SAID LANDS shall include all structures and installations brought or placed on the said lands for the particular use and enjoyment thereof or as an integral part of or especially adapted for the buildings thereon whether or not affixed in law to the said lands including, without limiting the generality of the foregoing, piping, plumbing, electrical equipment or systems, aerials, refrigerators, stoves, clothes washers and dryers, dishwashers, incinerators, radiators and covers, fixed mirrors, fitted blinds, window screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air conditioning, ventilating, heating, lighting, and water heating equipment, cooking and refrigeration equipment and all component parts of any of the foregoing and that the same shall become fixtures and an accession to the freehold and a part of the realty.

13. CHANGE OF USE

THE CHARGOR will not change or permit to be changed the use of the said lands, without the prior written consent of the Chargee and further that at no time shall the said lands be used in a manner that would contravene the legislation, laws, rules, requirements, orders, directions, ordinances, and regulations of any applicable governmental authority in force from time to time.

14. EVENTS OF DEFAULT

Without limiting any of the provisions of this Charge, each of the following events shall be considered events of default hereunder upon the happening of which the whole of the principal sum outstanding and all interest accruing thereon shall, at the Chargee's option, immediately become due and payable without notice or demand:

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- (a) Failure of the Chargor or Covenantor(s) or any of them to pay any instalment of principal, interest and/or taxes under this Charge or under any charge or other encumbrance on the said lands, on the date upon which any of the payments for same become due.
- (b) Failure of the Chargor or Covenantor(s) to strictly and fully observe or perform any condition, agreement, covenant or term set out in the Application and/or Commitment for the loan secured by this Charge, the provisions of this Charge, or any other document giving contractual relationship as between the Chargor and Chargee herein or if it is found at any time that any representation to the Chargee with respect to the loan secured by this Charge or in any way related thereto is incorrect or misleading.
- (c) Default by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any charge or other encumbrance affecting the said lands, whether or not it has priority over this Charge.
- (d) Upon the registration of any construction lien or execution against the said lands which is not discharged within a period of ten (10) days after the date of registration thereof.
- (e) In the event that it is discovered that the building(s) on the said lands contain Urea Formaldehyde Foam Insulation or that the Chargor has insulated the property with Urea Formaldehyde Foam Insulation.

15. SALE OR CHANGE OF CONTROL

PROVIDED that in the event of a further encumbrance or a sale, conveyance or transfer of the said lands or any portion thereof, or a change in control of the Chargor or a change in the beneficial ownership of the said lands or any portion thereof or a lease of the whole of the said lands, all sums secured hereunder shall, unless the written consent of the Chargee has been first obtained, forthwith become due and payable at the Chargee's option. The rights of the Chargee pursuant to this provision shall not be affected or limited in any way by the acceptance of payments due under this Charge from the Chargor or any person claiming through or under him and the rights of the Chargee hereunder shall continue without diminution for any reason whatsoever until such time as the Chargee has consented in writing as required by this provision.

PROVIDED further that no permitted sale or other dealing by the Chargor with the said lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other person liable for payment of the monies hereby secured.

16. DEFAULT

PROVIDED that the Chargee may, on default of payment, or default in the performance of any covenant in this Charge contained or implied by law or statute for fifteen (15) days, or thirty-five (35) days notice enter on and lease the said lands or in default of payment or in default in performance of any covenant in this Charge contained or implied by law or statute for at least fifteen (15) days may, on at least thirty-five (35) days notice sell the said lands. Such notice shall be given to such persons and in such manner and form and within such time as provided under the Mortgages Act, as amended from time to time. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with a grown-up person on the said lands, if occupied, or by placing it on the said lands if unoccupied, or at the option of the Chargee, by mailing it

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in a registered letter addressed to the Chargor at his last known address, or by publishing it once in a newspaper published in the county or district in which the lands are situate; and such notice shall be sufficient although not addressed to any person or persons by name or designation; and notwithstanding that any person to be affected thereby may be unknown, unascertained, or under disability. IF there be legal personal representatives of the Chargor on the death of the Chargor, such notice may, at the option of the Chargee, be given in any of the above modes or by personal service upon such representatives.

PROVIDED FURTHER, without prejudice to the statutory powers of the Chargee under the preceding proviso, that in case default be made in the payment of the said principal or interest or any part thereof and such default continues for two months after any payment of either principal or interest falls due, the Chargee may exercise the powers given under the preceding proviso with or without entry on the said lands without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such persons and in such manner and form and within such time as so required by law. AND that the Chargee may sell the whole or any part or parts of the said lands by public auction or private contract, or partly one or partly the other; and that the proceeds of any sale hereunder may be applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the said lands or by reason of nonpayment or procuring payments of monies secured hereby or otherwise; and that the Chargee may sell any of the said lands on such terms as to credit and otherwise as shall appear to him most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulations as to title or evidence or commencement of title or otherwise which it shall deem proper; and may buy in or rescind or vary any contract for the sale of the whole or any part of the said lands and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no cause had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given, but any person damnified by an unauthorized, improper or irregular exercise of the power shall have his remedy against the person exercising the power in damages only.

AND it is hereby agreed between the parties hereto that the Chargee may pay all premiums of insurance and all taxes and rates which shall from time to time fall due and be unpaid in respect of the said lands, and that such payments together with all costs, charges and legal fees (between a solicitor and his own client), and expenses which may be incurred in taking, recovering and keeping possession of the said lands, and of negotiating this loan, investigating title, and registering the Charge and other necessary deeds, and generally in any other proceedings taken in connection with or to realize this security (including legal fees, real estate commissions, appraisal costs and other costs incurred in leasing or selling the said lands or in exercising the power of entering leasing and selling herein contained), shall be with interest at the rate aforesaid, a charge upon the said lands in favour of the Chargee and that the Chargee may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the said lands, and that any amount paid by the Chargee shall be added to the monies hereby secured and shall be payable forthwith with interest at the rate herein, and in default this Charge shall immediately become due and payable at the option of the Chargee, and all powers in this Charge conferred shall become exercisable. In the event of the Chargee paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of

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the money advanced on the security of this Charge or otherwise, the Chargee shall be entitled to all the rights, equities and securities of the person or persons, company, corporation or government so paid and is hereby authorized to obtain an assignment or discharge thereof, and to retain same, for whatever period the Chargee shall deem it proper to do so.

PROVIDED that wherever a power of sale is hereby conferred upon the Chargee, all provisions hereof relating to exercising such power, including, without in any way limiting the generality of the foregoing, the persons to whom notice of exercising such power shall be given and the manner of giving such notice, shall be deemed to have been amended so as to comply with the requirements of law from time to time in force with respect to exercising such power of sale, and wherever there shall be a conflict between the provisions of this Charge relating to exercising such power of sale and the requirements of such law, the provisions of such law shall govern. Insofar as there is no such conflict, the provisions of this Charge shall remain unchanged.

PROVIDED that the Chargee may lease or sell as aforesaid without entering into possession of the said lands.

PROVIDED that the Chargee may distrain for arrears of interest and that the Chargee may distrain for arrears of principal and monthly payments of taxes, if required, in the same manner as if the same were arrears of interest.

PROVIDED that in default of the payment of the interest hereby secured the principal sum herein shall become payable at the option of the Chargee, together with interest thereon.

PROVIDED that upon default of payment of instalments of principal promptly as the same become due, the balance of the principal and interest shall immediately become due and payable at the option of the Chargee.

PROVIDED that until default hereunder the Chargor shall have quiet possession of the said lands.

PROVIDED that the Chargee may in writing at any time or times after default waive such default and upon such waiver the time or times for payment of the principal secured herein shall be as set out in the proviso for redemption herein. Any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default. No waiver shall be effective or binding on the Chargee unless made in writing.

AND it is further agreed by and between the parties that the Chargee may at its discretion at any time, release any part or parts of the said lands or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the said lands or any person from this Charge or from any of the covenants herein contained, it being especially agreed that every part or lot into which the said lands are or may hereafter be divided does and shall stand charged with all of the monies hereby secured and no person shall have the right to require the principal secured hereunder to be apportioned; further the Chargee shall not be accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee. No sale or other dealing by the Chargor with the equity of redemption in the said lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other person liable for payment of the monies hereby secured.

IT IS FURTHER agreed that the Chargee may exercise all remedies provided for in this Charge concurrently or in such order and at such times as it may see fit and shall not be

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obligated to exhaust any remedy or remedies before exercising its rights under any other provisions contained in this Charge.

17. APPOINTMENT OF A RECEIVER

IT IS DECLARED and agreed that at any time and from time to time when there shall be default under the provisions of this Charge, the Chargee may at such time and from time to time and with or without entering into possession of the said lands appoint in writing a Receiver, or a Receiver and Manager, or a Receiver-Manager, or a Trustee (the "Receiver") of the said lands, or any part thereof, and of the rents and profits thereof and with or without security and may from time to time by similar writing remove any such Receiver and appoint another in its place and stead, and in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor. The Chargor hereby irrevocably agrees and consents to the appointment of such Receiver of the Chargee's choice and without limitation whether pursuant to this Charge, the Mortgages Act, the Construction Lien Act, 1983 or pursuant to the Trustee Act (as the Chargee may at its sole option require). Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the said lands or any part thereof and the Chargor hereby consents to a Court Order for the appointment of such Receiver, if the Chargee in its discretion chooses to obtain such order, and on such terms and for such purposes as the Chargee at its sole discretion may require, including, without limitation, the power to manage, charge, pledge, lease and/or sell the said lands and/or complete or partially complete any construction thereon and to receive advances of monies pursuant to any charges, pledges and/or loans entered into by the Receiver or the Chargor, and if required by the Chargee, in priority to any existing encumbrances affecting the said lands, including without limitation, charges and construction lien claims.

UPON the appointment of any such Receiver from time to time the following provisions shall apply:

- (i) A Statutory Declaration of the Chargee or an Officer of the Chargee as to default under the provisions of this Charge shall be conclusive evidence thereof;
- (ii) Every such Receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents falling due in respect to the said lands, or any part thereof, whether in respect of any tenancies created in priority to this Charge or subsequent thereto and with respect to all responsibility and liability for its acts and omissions;
- (iii) The Chargee may from time to time fix the remuneration of every such Receiver which shall be a charge on the said lands, and may be paid out of the income therefrom or the proceeds of sale thereof;
- (iv) The appointment of every such Receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the Receiver in any respect and such appointment or anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a chargee in possession in respect of the said lands or any part thereof;
- (v) The Receiver shall have the power to rent any portion of the said lands for such term and subject to such provisions as it may deem advisable or expedient and shall have the authority to execute any lease of the said lands or any part thereof in the name and on behalf of the Chargor and the Chargor undertakes to ratify and confirm, and hereby ratifies and confirms whatever acts such Receiver may do on the said lands;

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- (vi) In all instances, the Receiver shall be acting as the attorney or agent of the Chargor;
- (vii) Every such Receiver shall have full power to complete any unfinished construction upon the said lands;
- (viii) Such Receiver shall have full power to manage, operate, amend, repair, alter or extend the said lands or any part thereof in the name of the Chargor for the purposes of securing the payment of rental from the said lands or any part thereof;
- (ix) The Receiver shall have full power to do all acts and execute all documents which may be considered necessary or advisable in order to protect the Chargee's interest in the lands including, without limiting the generality of the foregoing, increasing, extending, renewing or amending all Charges which may be registered against the lands from time to time, whether or not such Charges are prior to the interest of the Chargee in the said lands; sale of the said lands; borrowing money on the security of the said lands; applying for and executing all documents in any way related to any rezoning applications, severance of lands pursuant to the provisions of the Planning Act, as amended subdivision agreements and development agreements and agreements for the supply or maintenance of utilities or services to the lands, including grants of lands or easements of rights of way necessary or incidental to any such agreements; executing all grants, documents, instruments and agreements related to compliance with the requirements of any competent governmental authority, whether pursuant to a written agreement or otherwise and applying for and executing all documents in any way related to registration of the lands as a condominium; completing an application for first registration pursuant to the provisions of the Land Titles Act of Ontario or pursuant to the Certification of Titles Act of Ontario; and for all and every of the purposes aforesaid it does hereby give and grant unto the Receiver full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done as aforesaid in and about the said lands, and to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the said lands, as fully and effectually to all intents and purposes as it itself could do if personally present and acting therein.
- (x) Such Receiver shall not be liable to the Chargor to account for monies or damages other than cash received by it in respect to the said lands or any part thereof and out of such cash so received every such Receiver shall pay in the following order:
 - (a) Its remuneration;
 - (b) All payments made or incurred by it in the exercise of its powers hereunder;
 - (c) Any payment of interest, principal and other money which may from time to time be or become charged upon the said lands in priority to the monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by it in respect to the said lands or any part thereof.

THE CHARGOR hereby irrevocably appoints the Chargee as his attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Chargee and/or its solicitors so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Chargor and all parties

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dealing with the Chargor, the Chargee and/or the Receiver and/or with respect to the said lands in the same manner as if documentation was duly executed by the Chargor himself.

18. INSPECTION

THE CHARGEES shall have access to and the right to inspect the said lands at all reasonable times.

19. RIGHT OF CHARGEES TO REPAIR

THE CHARGOR covenants and agrees with the Chargee that in the event of default in the payment of any instalment or other monies payable hereunder by the Chargor or on breach of any covenant, proviso or agreement herein contained, after all or any of the monies hereby secured have been advanced, the Chargee may, at such time or times as the Chargee may deem necessary and without the concurrence of any person, enter upon the said lands and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the said lands or for inspecting, taking care of, leasing, collecting the rents of and managing generally the said lands, as the Chargee may deem expedient; and all reasonable costs, charges and expenses including, but not limited to, allowances for the time and services of any employee of the Chargee or other person appointed for the above purposes, and a servicing fee shall be forthwith payable to the Chargee by the Chargor and shall be a charge upon the said lands and shall bear interest at the aforesaid rate until paid.

20. CHARGEES NOT TO BE DEEMED CHARGEES IN POSSESSION

PROVIDED and it is agreed between the Chargor and the Chargee that the Chargee in exercising any of the rights given to the Chargee under this Charge shall be deemed not to be a Chargee in possession nor a Mortgagee in possession.

21. ADDITIONAL SECURITY

IN THE EVENT that the Chargee, in addition to the said lands secured hereunder, holds further security on account of the monies secured herein, it is agreed that no single or partial exercise of any of the Chargee's powers hereunder or under any of such security, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such security. The Chargee shall at all times have the right to proceed against all, any, or any portion of such security in such order and in such manner as it shall in its sole discretion deem fit, without waiving any rights which the Chargee may have with respect to any and all of such security, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor under the remaining security, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Chargee with respect to any and all such security shall be at an end.

22. TAKING OF JUDGEMENT NOT A MERGER

THE taking of a judgement or judgements on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times herein provided; and further that the said judgement shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgement shall have been fully paid and satisfied.

23. PRIORITY OVER VENDOR'S LIEN

THE CHARGOR hereby acknowledges that this Charge is intended to be prior to any vendor's lien, whether in favour of the Chargor or otherwise, and the Chargor covenants

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that he has done no act to give priority over this Charge to any vendor's lien, nor is he aware of any circumstances that could create a vendor's lien. Further, the Chargor covenants to do all acts and execute or cause to be executed all documents required to give this Charge priority over any vendor's lien and to give effect to the intent of this clause.

24. RENEWAL OR EXTENSION OF TIME; ATTENTION SUBSEQUENT INTERESTS

NO renewal or extension of the term of this Charge given by the Chargee to the Chargor, or anyone claiming under him, or any other dealing by the Chargee with the owner of the equity of redemption of said lands, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other person liable for the payment of the monies hereby secured, and this Charge may be renewed by an agreement in writing at maturity for any term with or without an increased rate of interest, or amended from time to time as to any of its terms, including, without limitation, an increase of interest rate or principal amount notwithstanding that there may be subsequent encumbrancers. And it shall not be necessary to register any such agreement in order to retain priority for this Charge so altered over any instrument registered subsequent to this Charge. PROVIDED that nothing contained in this paragraph shall confer any right of renewal upon the Chargor.

PROVIDED further that the terms of this Charge may be amended or extended from time to time by mutual agreement between the Chargor and the Chargee and the Chargor hereby further covenants and agrees that, notwithstanding that the Chargor may have disposed of his interest in the lands hereby secured, the Chargor will remain liable as a principal debtor and not as a surety for the observance of all of the terms and provisions herein and will in all matters pertaining to this Charge well and truly do, observe, fulfill and keep all and singular the covenants, provisos, conditions, agreements and stipulations in this Charge or any amendment or extension thereof notwithstanding the giving of time for the payment of the Charge or the varying of the terms of the payment thereof or the rate of interest thereon or any other indulgence by the Chargee to the Chargor.

THE CHARGOR covenants and agrees with the Chargee that no agreement for renewal hereof or for extension of the time for payment of any monies payable hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Chargor to the Chargee after the expiration of the original term of this Charge or of any subsequent term agreed to in writing between the Chargor and the Chargee, and that no renewal hereof or extension of the time for payment of any monies hereunder shall result from, or be implied from, any other act, matter or thing, save only express agreement in writing between the Chargor and the Chargee.

25. CONSTRUCTION LIENS

THE CHARGEe may at its option, withhold from any advances for which the Chargor may have qualified, such holdbacks as the Chargee, in its sole discretion, considers advisable to protect its position under the provisions of the Construction Lien Act, 1983, as amended, so as to secure its priority over all liens, until the Chargee is fully satisfied that all lien periods have expired and that there are no preserved or perfected liens outstanding. Nothing in this clause shall be constructed to make the Chargee an "owner" or "payer" as defined under the Construction Lien Act, 1983 as amended, nor shall there be, or be deemed to be, any obligation by the Chargee to retain any holdback which may be required by the said legislation. Any holdback which may be required to be made by the owner or payer shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of the Construction Lien Act, 1983, as amended.

26. EXPROPRIATION

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IF the said lands or any part thereof shall be expropriated by any government, authority, body or corporation clothed with the powers of expropriation, the principal sum herein remaining unpaid shall at the option of the Chargee forthwith become due and payable together with interest thereon at the rate provided for herein to the date of payment together with a bonus equal to the aggregate of (a) three months' interest at the said rate calculated on the amount of the principal remaining unpaid, AND (b) one months' interest at the rate provided for herein calculated on the principal remaining unpaid, for each full year of the term of this Charge or any part of such year from the said date of payment to the date the said principal sum or balance thereof remaining unpaid would otherwise under the provisions of this Charge become due and payable and in any event all the proceeds of any expropriation shall be paid to the Chargee at its option in priority to the claims of any other party.

27. PREAUTHORIZED CHEQUING PLAN

PROVIDED that all payments made under this Charge by the Chargor, his heirs, executors, administrators, successors and assigns shall be made by a preauthorized cheque payment plan as approved by the Chargee. The Chargee shall not be obligated to accept any payment excepting payment made by preauthorized cheque. Failure to make all payments by preauthorized cheque shall be an act of default within the meaning of this Charge and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option.

28. POSTDATED CHEQUES

THE CHARGOR shall, if and when required by the Chargee, in lieu of preauthorized cheque payment plan, deliver to the Chargee upon the first advance of monies hereunder or upon request and thereafter on each anniversary date thereof in each year for the duration of the term of this Charge, postdated cheques for the payments of principal, interest and estimated realty taxes required to be made herein during the twelve-month period commencing on each such anniversary date. In the event of default by the Chargor in delivery to the Chargee of the postdated cheques as herein provided, this Charge shall be deemed in default and the Chargee shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option. In addition, the Chargee upon the Chargor's failure to deliver such postdated cheques as required hereunder shall be entitled to a servicing fee for each written request that it makes to the Chargor for the purpose of obtaining such postdated cheques.

ANY step taken by the Chargee hereunder by way of a request for further postdated cheques shall be without prejudice to the Chargee's rights hereunder to declare the Charge to be in default in the event that such postdated cheques are not delivered within the required time.

29. PAYMENT

ALL payments of principal, interest and other monies payable hereunder to the Chargee shall be payable at par in lawful money of Canada at such place as the Chargee shall designate in writing from time to time. In the event that any of the monies secured by this Charge are forwarded to the Chargee by mail, payment will not be deemed to have been made until the Chargee has actually received such monies and the Chargor shall assume and be responsible for all risk of loss or delay.

30. RECEIPT OF PAYMENT

ANY payment received after 1:00 p.m. on any date shall be deemed, for the purpose of calculation of interest to have been made and received on the next bank business day

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and the Chargee shall be entitled to interest on the amount due it, to and including the date on which the payment is deemed by this provision to have been received.

31. NO DEEMED REINVESTMENT

THE PARTIES hereto agree that the Chargee shall not be deemed to reinvest any monthly or other payments received by it hereunder excepting only blended monthly payments, if applicable.

32. DISCHARGE

THE CHARGEES shall have a reasonable period of time after payment in full of the monies hereby secured within which to prepare and execute a discharge of this Charge; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Chargee; and all legal and other expenses for the preparation and execution of such discharge shall, together with the Chargee's fee for providing same, be borne by the Chargor. The discharge shall be prepared and executed by such persons as are specifically authorized by the Chargee and the Chargee shall not be obligated to execute any discharge other than a discharge which has been so authorized.

33. DISHONOURED CHEQUES

IN THE EVENT that any of the Chargor's cheques are not honoured when presented for payment to the drawee, the Chargor shall pay to the Chargee for each such returned cheque a servicing fee of \$25.00 to cover the Chargee's administration costs with respect to same. In the event that the said cheque which has not been honoured by the drawee is not forthwith replaced by the Chargor, the Chargee shall be entitled to a further servicing fee for each written request therefor which may be necessitated by the Chargor not forthwith replacing such dishonoured cheque.

34. SERVICING FEES

ALL servicing fees as herein provided are intended to compensate the Chargee for the Chargee's administrative costs and shall not be deemed a penalty. The amount of such servicing fees if not paid shall be added to the principal amount secured hereunder, and shall bear interest at the rate aforesaid and the Chargee shall have the same rights with respect to collection of same as it does with respect to collection of principal and interest hereunder or at law.

35. STATEMENTS OF ACCOUNT

THE CHARGOR shall be entitled to receive upon written request, a statement of account with respect to this Charge as of any payment date under this Charge and the Chargee shall be entitled to a servicing fee for each such statement.

36. FAMILY LAW ACT

THE CHARGOR shall forthwith after any change or happening affecting any of the following, namely, (a) the spousal status of the Chargor, (b) the qualification of the said lands as a matrimonial home within the meaning of the Family Law Act, as amended, (c) the ownership of the equity of redemption in the said lands, and (d) a shareholder of the Chargor obtaining rights to occupy the said lands by virtue of shareholding within the meaning of the Family Law Act, as the case may be, the Chargor will advise the Chargee accordingly and furnish the Chargee with full particulars thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner or owners for the time being of the said equity of redemption and of any spouse who is not an owner but who has a right of possession in the said lands by virtue of the said Act. In furtherance of such intention, the Chargor covenants and agrees to furnish the Chargee

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with such evidence in connection with any of (a), (b), (c) and (d) above as the Chargee may from time to time request.

37. INDEPENDENT LEGAL ADVICE

THE CHARGOR and Covenantor(s) acknowledge that they have full knowledge of the purpose and essence of this transaction, and that they have been appropriately and independently legally advised in that regard or have been advised of their right to independent legal advice and have declined same. Such parties agree to provide to the Chargee a Certificate of Independent Legal Advice as and when same may be required, regarding their knowledge and understanding of this transaction.

38. NONMERGER

NOTWITHSTANDING the registration of this Charge and the advance of funds pursuant hereto, the terms and/or conditions of the Letter of Commitment pertaining to the loan transaction evidenced by this Charge shall remain binding and effective on the parties hereto, and shall not merge in this Charge nor in any document executed and/or delivered on closing of this transaction, and the terms thereof are incorporated herein by reference. In the event of any inconsistency between the terms of such Letter of Commitment and this Charge, this Charge shall prevail.

39. CONSENT OF CHARGE

WHEREVER the Chargor is required by this Charge to obtain the consent or approval of the Chargee, it is agreed that, subject to any other specific provision contained in this Charge to the contrary, the Chargee may give or withhold its consent or approval for any reason that it may see fit in its sole and absolute discretion, and the Chargee shall not be liable to the Chargor in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such approval shall be for the account of the Chargor.

40. INVALIDITY

IF ANY of the covenants or conditions in this Charge inclusive of all schedules forming a part hereof shall be void for any reason it shall be severed from the remainder of the provisions hereof and the remaining provisions shall remain in full force and effect notwithstanding such severance.

41. HEADINGS

THE headings with respect to the various paragraphs of this Charge are intended to be for identification of the various provisions of this Charge only and the wording of such headings is not intended to have any legal effect.

42. INTERPRETATION

PROVIDED and it is hereby agreed that, in construing this Charge, everything herein contained shall extend to and bind and may be enforced or applied by the respective heirs, executors, administrators, successors in office, successors and assigns, as the case may be, of each and every of the parties hereto, and where there is more than one Chargor or Chargee or more than one covenantor, or there is a female party or a corporation or there is no covenantor, the provisions hereof shall be read with all grammatical changes thereby rendered necessary, and all covenants shall be deemed to be joint and several.

43. SHORT FORM OF MORTGAGES ACT

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IF ANY of the forms of words contained herein are substantially in the form of words contained in Column One of Schedule B of the Short Form of Mortgages Act, R.S.O. 1980, c.474 and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column Two of Schedule B of the said Act distinguished by the same number, and this Charge shall be interpreted as if the Short Form of Mortgages Act was still in full force and effect.

44. BONUS

UPON DEFAULT of payment of any principal monies hereby secured at the time or times herein provided, the Chargee shall be entitled to require, in addition to all monies payable in accordance with this Charge, a bonus equal to three (3) months' interest in advance on the said principal monies and the Chargor shall not be entitled to require a discharge of this Charge without such payment. Nothing herein contained shall effect or limit the right of the Chargee to recover by action or otherwise the principal money so in arrears after default has been made.

45. COST

IN THIS CHARGE the word "cost" shall extend to and include legal costs incurred by the Chargee as between a solicitor and his own client.

46. NOTICE

WHENEVER a party to this Charge desires to give any notice to another, it shall be sufficient for all purposes if such notice is personally delivered or sent by registered or certified mail, postage prepaid, addressed to the intended recipient at the address stated herein or such other address communicated in writing by the addressee in a written notice to the sender.

DATED the 30th day of May, 1986.

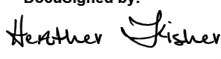
THE MUTUAL TRUST COMPANY

Per: _____
Name: Ian Sutherland
Title: Executive Vice President

Per: _____
Name: S. Scott Cameron
Title: Vice President

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "I" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

LRO # 80 **Notice Of Assignment Of Rents-General**

Received as AT5581121 on 2020 11 26 at 09:05

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 12

Properties

PIN 07500 - 0082 LT

Description PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN 66R28992; S/T EASEMENT IN FAVOUR OF PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865050; T/W EASEMENT OVER PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865049 (PARTIALLY RELEASED BY AT5347793), AT4865050 & AT4865051; S/T INTEREST OF THE CITY OF TORONTO AS IN EB186721; TOGETHER WITH A RIGHT OF WAY OVER PTS 7,8,9 66R29993 AS IN AT4478658; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN AT5347804; SUBJECT TO AN EASEMENT IN GROSS OVER PART 7, 66R28992 AS IN AT5347808; SUBJECT TO AN EASEMENT IN GROSS OVER PART 6, 66R28992 AS IN AT5347812; SUBJECT TO AN EASEMENT AS IN AT5367415; CITY OF TORONTO

Address TORONTO

Applicant(s)

The assignor(s) hereby assigns their interest in the rents of the above described land. The notice is based on or affects a valid and existing estate, right, interest or equity in land.

Name VANDYK - BACKYARD KINGS MILL LIMITED

Address for Service 1944 Fowler Drive
Mississauga, Ontario L5K 0A1

I, Richard Ma, Authorized Signing Officer, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Party To(s)**Capacity****Share**

Name MCAP FINANCIAL CORPORATION

Address for Service 200 King Street West, Suite 400
Toronto, ON M5H 3T4

Statements

The applicant applies for the entry of a notice of general assignment of rents.

This notice may be deleted by the Land Registrar when the registered instrument, AT5581120 registered on 2020/11/26 to which this notice relates is deleted

Schedule: See Schedules

Signed By

Avrom Warren Brown 1 Adelaide Street E., Suite 801 acting for Signed 2020 11 26
Toronto Applicant(s)
M5C 2V9

Tel 416-869-1234

Fax 416-869-0547

I have the authority to sign and register the document on behalf of all parties to the document.

Avrom Warren Brown 1 Adelaide Street E., Suite 801 acting for Signed 2020 11 26
Toronto Party To(s)
M5C 2V9

Tel 416-869-1234

Fax 416-869-0547

I have the authority to sign and register the document on behalf of all parties to the document.

Submitted By

GARFINKLE, BIDERMAN LLP 1 Adelaide Street E., Suite 801 2020 11 26
Toronto
M5C 2V9

Tel 416-869-1234

Fax 416-869-0547

Fees/Taxes/Payment

Statutory Registration Fee \$65.30

Total Paid \$65.30

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

LRO # 80 **Notice Of Assignment Of Rents-General**

Received as AT5581121 on 2020 11 26 at 09:05

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 12

File Number

Party To Client File Number :

9150-084

ASSIGNMENT OF RENTS AND LEASES

THIS AGREEMENT made as of the 7th day of July, 2020.

B E T W E E N:

VANDYK - BACKYARD KINGS MILL LIMITED

(hereinafter called the "Assignor"),

OF THE FIRST PART,

- AND -

MCAP FINANCIAL CORPORATION

(hereinafter called the "Assignee"),

OF THE SECOND PART.

WHEREAS:

A. VANDYK - BACKYARD KINGS MILL LIMITED is the registered owner of the lands described as PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN 66R28992, City of Toronto, Province of Ontario, Toronto Land Registry Office (No. 80) and municipally known as: 15 Neighbourhood Lane, Etobicoke, Ontario ("Lands");

B. pursuant to the Mortgage, the Assignor mortgaged and charged in favour of the Assignee all of its right, title and interest in and to the Project as security, inter alia, for the due payment of all principal, interest and other monies payable under the Mortgage;

C. as additional security for the Assignor's covenants and obligations as set out in the Mortgage and set out in all other agreements, documents, instruments, undertakings and commitments entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee pursuant to the Mortgage, the Assignor agreed to assign to the Assignee the Rents and the Leases, together with all benefits, powers and advantages of the Assignor to be derived therefrom.

NOW THEREFORE THIS ASSIGNMENT WITNESSES that in consideration of the sum of Ten Dollars (\$10.00) paid by the Assignee to the Assignor (the receipt and sufficiency of which are hereby acknowledged) the parties covenant and agree with each other as follows:

1. **Recitals Correct:** The Assignor confirms that validity and truth of the above-noted recitals, which have the same force and effect as if repeated herein at length.
2. **Definitions:** In this Agreement the following capitalized terms have the respective meanings set out below:
 - (a) **"Agreement", "this Agreement", "the Agreement", "hereto", "hereof", "hereby", "hereunder"** and similar expressions mean or refer to this entire agreement as amended from time to time and any agreement or instrument supplemental or ancillary hereto or in implementation hereof;
 - (b) **"Building"** means any construction, erection or structure located on, placed upon or erected in, under or on the Lands, any additions, alterations, expansions, improvements and replacements thereof and includes, without limitation, all equipment, chattels and fixtures which may be owned by the Assignor and may now or hereafter be located in the Building or in any additions, alterations, expansions, improvements and replacements of the foregoing;

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- (c) **"Default"** has the meaning ascribed thereto in Section 8 hereof;
 - (d) **"Dispute"** has the meaning ascribed thereto in Sub-section 8(b) hereof;
 - (e) **"Indebtedness"** has the meaning ascribed thereto in Section 3 hereof;
 - (f) **"Lands"** means the lands described above;
 - (g) **"Leases"** means any and all present and future leases or subleases, offers to lease or sublease, letters of intent to lease or sublease and all other agreements to lease or sublease including, without limitation, all other occupancy agreements relating to the whole or any part of parts of the Project made by the Assignor or any predecessor in title of the Assignor, as landlord, and all present and future licences or concessions whereby the Assignor gives any person the right (other than an easement or a right in the nature of an easement) to use or occupy the whole or any part or parts of the Project, in each case for the time being in effect, and all revisions, alterations, modifications, amendments, changes, extensions, renewals, replacements or substitutions thereof or therefor which may hereafter be effected or entered into and **"Lease"** means any of the Leases;
 - (h) **"Mortgage"** means the indenture given by or to be given by the Assignor in favour of the Assignee on the Lands;
 - (i) **"Prime Rate"** means the applicable interest rates set out in the letter of commitment referable to this transaction;
 - (j) **"Project"** means the Lands and the Building;
 - (k) **"Rents"** means all present and future income, rents, issues, profits and any other monies including rental insurance proceeds and expropriation awards to be derived from, reserved or payable under the Leases; and
 - (l) **"Tenant"** means any person who is hereafter a party to a Lease or has any right of use or occupancy to all or any part of the Project, whether as a tenant, licensee or concessionaire under a Lease, and **"Tenants"** means all such persons.
3. **Assignment:** As continuing and additional security for:
- (a) the repayment to the Assignee of all amounts (the "Indebtedness") owing from time to time by the Assignor to the Assignee under, in connection with or arising out of or from any agreement entered into by the Assignor with the Assignee with respect to the Project, made by the Assignor in favour of the Assignee with respect to the Project or assigned by the Assignor to the Assignee including, without limitation, the Mortgage; and
 - (b) the due performance by the Assignor of the terms, agreements, provisions, conditions, obligations, and covenants on the part of the Assignor to be performed under the Mortgage and all other agreements, documents, instruments, undertakings and commitments entered into between the Assignor and the Assignee with respect to the Project, made by the Assignor in favour of the Assignee with respect to the Project or assigned by the Assignor to the Assignee;

the Assignor, upon and subject to the terms of this Agreement, assigns, sets over and transfers to the Assignee all its rights, benefits, title and interest under, in and to, and all claims of whatsoever nature or kind which the Assignor now has or may hereafter have under or pursuant to:

- (c) the Leases;
- (d) the Rents;

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- (e) the benefit of any and all present and future guarantees of and indemnities with respect to any Lease and the performance of any or all of the obligations of any Tenant thereunder; and
- (f) all books, accounts, invoices, letters, papers, drawings and documents in any way evidencing or relating to the Leases, the Rents and any guarantees or indemnities of any Lease;

all of the foregoing described in Subsection 3(c) to and including 3(f) together with all proceeds therefrom are hereinafter collectively called the "Premises Hereby Assigned".

4. **Acknowledgement of Assignor:** The Assignor acknowledges that neither this Agreement nor the assignment constituted hereby:

- (a) shall in any way lessen or relieve the Assignor from:
 - (i) the obligation of the Assignor to observe, satisfy and perform each and every term, agreement, provisions, conditions, obligation and covenant set out in any of the Premises Hereby Assigned; and
 - (ii) any liability of the Assignor to each Tenant, the Assignee or to any other person, firm or corporation;
- (b) imposes any obligation on the Assignee to assume any liability or obligations under, or to observe, perform or satisfy any term, agreement, provision, condition, obligation or covenant set out in, any of the Premises Hereby Assigned;
- (c) imposes any liability on the Assignee for any act or omission on its part in connection with this Agreement or the assignment constituted hereby including, without limitation, the fulfillment or non-fulfillment by the Assignee of the obligations, covenants and agreements of the Assignor set out in the Premises Hereby Assigned;
- (d) obligates the Assignee to give notice of this Agreement and the assignment constituted hereby to any Tenant or any other person, firm or corporation whatsoever; provided that the Assignee may, in its absolute discretion, give any such notice at any time or from time to time without further notice to the Assignor; and
- (e) authorizes the Assignor to dispose of or transfer by way of conveyance, mortgage, lease, assignment or otherwise, the Project, the Assignor's interest in the Project or any part of either, except as specifically approved herein.

5. **Positive Covenants of Assignor:** The Assignor covenants and agrees:

- (a) to observe, perform and satisfy each and every term, agreement, provision, condition, obligation and covenant set out in, or required to be observed, performed and satisfied by the Assignor under or pursuant to, the Premises Hereby Assigned;
- (b) to deliver to the Assignee a copy of all written notices, demands or requests given under, in connection with or pursuant to the Premises Hereby Assigned that are:
 - (i) received by the Assignor, forthwith upon receipt of same; and
 - (ii) delivered by the Assignor, contemporaneously with the delivery of same;
- (c) to indemnify and save the Assignee harmless from and against any liabilities, losses, costs, charges, expenses (including legal fees and disbursements on a solicitor and his own client basis) damages, claims, demands actions, suits, proceedings, judgments and forfeitures suffered or incurred by the Assignee in connection with, on account of or by reason of:

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- (i) the assignment to the Assignee of the Premises Hereby Assigned;
 - (ii) any alleged obligation of the Assignee to observe, perform or satisfy any term, agreement, provision, condition, obligation or covenant set out in any of the Premises Hereby Assigned;
 - (iii) any failure of the Assignor to observe, perform or satisfy its covenants, agreements, warranties and representations set out in this Agreement including without limitation, subparagraphs 5(a), (b), (d), (e), (f), (g), (h), (i), (j) and (k) hereof; and
 - (iv) the enforcement of the assignment constituted by this Agreement;
- (d) to notify the Assignee in writing as soon as the Assignor becomes aware of any Dispute, claim or litigation in respect of any of the Premises Hereby Assigned or of any breach of default by the Assignor or any other person, firm or corporation in the observance, performance or satisfaction of any of the terms, agreements, provisions, conditions, obligations or covenants set out in the Premises Hereby Assigned;
- (e) to obtain such consents from third parties including, without limitation, Tenants as may be necessary or required by the Assignee in connection with the assignment constituted by this Agreement;
- (f) upon the written request of the Assignee, to execute and deliver to the Assignee specific assignments of any of the Leases duly acknowledged by the respective Tenants under such Leases, which specific assignments shall be in form and substance acceptable to the Assignee;
- (g) to use its best efforts to ensure that each Lease shall be entered into by it in good faith, at arm's length, at a rent and otherwise upon such terms and conditions as are reasonable and proper in the circumstances and are upon prevailing market terms and conditions;
- (h) to deliver to the Assignee, at the request of the Assignee from time to time, a notarial copy of any Lease and of any guarantee or indemnity in respect of the obligations of any Tenant under a Lease;
- (i) to execute and deliver to each Tenant and the Assignee, at the request of the Assignee from time to time, a written notice to each Tenant directing such Tenants to pay the Rents and all other sums owing under the Leases to the Assignee;
- (j) that each of the warranties and representations of the Assignor set out in this Agreement is now and will continue to be true and correct until the Indebtedness is paid in full; and
- (k) that it will pay or cause to be paid to the Assignee or pursuant to the Assignee's direction, upon demand, all costs, charges, fees and expenses including, without limitation, legal fees and disbursements on a solicitor and his own client basis, court costs and any other out-of-pocket costs and expenses incurred by the Assignee in connection with or arising out of or with respect to this Agreement including, without limitation, any one or more of the following:
- (i) the negotiation, preparation, execution and enforcement of this Agreement and all documents, agreements and other writings incidental or ancillary hereto;
 - (ii) any act done or taken pursuant to this Agreement including, without limitation, recovering the Indebtedness and registering, discharging and reassigning this Agreement;
 - (iii) the preservation, protection, enforcement or realization of the Premises

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Hereby Assigned including, without limitation, retaking, holding, repairing, preparing for disposition and disposing of the Premises Hereby Assigned;

- (iv) any action or other proceeding instituted by the Assignor, the Assignee or any other person, firm or corporation in connection with or in any way relating to:
 - (1) this Agreement or any part hereof;
 - (2) the preservation, protection, enforcement or realization of the Premises Hereby Assigned; or
 - (3) the recovery of the Indebtedness; and
- (v) all amounts incurred or paid by the Assignor pursuant to paragraph 8 hereof;

together with interest thereon from the date of the incurring of such expenses at the then Prime Rate calculated monthly and adjusted daily. Whether any action or any judicial proceedings to enforce the aforesaid payments has been taken or not, the amount owing to the Assignee under this subparagraph shall be added to the Indebtedness.

6. **Negative Covenants of Assignor:** The Assignor covenants and agrees that it shall not:
- (a) sell, assign, transfer, dispose of, collect, receive or accept any of the Premises Hereby Assigned including, without limitation, the Rents except as may be permitted in this Agreement, nor do, nor permit to be done, any act or thing whereby the Assignee may be prevented or hindered from so doing;
 - (b) pledge, charge, mortgage, hypothecate, create a security interest in or otherwise encumber the Premises Hereby Assigned or any part thereof in any manner whatsoever other than to the Assignee;
 - (c) cancel, terminate or forfeit or take any action to cancel, terminate or forfeit or suffer or permit anything allowing any Tenant under any Lease to cancel, terminate, forfeit any of the Premises Hereby Assigned, or accept or agree to the surrender of, or take any action or suffer or permit anything allowing the surrender of any of the Premises Hereby Assigned;
 - (d) waive, amend, modify or vary any of the terms, agreements, provisions, conditions, obligations and covenants set out in the Premises Hereby Assigned, or otherwise agree or consent to any waiver, amendment, modification or variation of any of them, whether by way of collateral agreement or otherwise; or
 - (e) waive or agree to waive any failure of any party to any of the Premises Hereby Assigned including, without limitation, any Tenants, to observe, perform or satisfy any of the terms, agreements, provisions, conditions, obligations or covenants set out in any of the Premises Hereby Assigned;

however, the Assignor may do those matters referred to in Subsections 6(c), (d) and (e) hereof, if:

- (f) the Tenant has been declared or adjudged bankrupt; or
- (g) the action taken is in accordance with good business practice, on an arm's length basis and in good faith and the action is one which a prudent owner of property similar to the Project would take, considering all the relevant circumstances including, without limitation, the then current leasing practices and market conditions.

7. **Representations and Warranties of Assignor:** The Assignor represents and warrants to the Assignee that:

- (a) each of the Premises Hereby Assigned including, without limitation, each of the Leases in effect as of the date hereof, is valid and subsisting, is in full force and effect, unamended, in good standing and there are no defaults thereunder;
 - (b) the Assignor has good, valid and legal right to absolutely assign and transfer to the Assignee the Premises Hereby Assigned, free and clear of all assignments, mortgages, charges, pledges, security interest and other encumbrances other than those in favour of the Assignee;
 - (c) the Assignor has taken all necessary action, corporate or otherwise, to authorize the execution and delivery of this Agreement and the performance of its obligations set out in this Agreement and in each of the Leases;
 - (d) the execution, delivery and performance of this Agreement and the assignment constituted hereby will not conflict with, be in or contribute to a contravention, breach or default under the Assignor's constating documents, by-laws, resolutions or the provisions of any indenture, instrument, agreement or undertaking to which the Assignor is a party or by which it is bound, or under any valid regulation, order, writ or decree of any court, tribunal, arbitration panel or governmental authority;
 - (e) this Agreement has been duly executed and when delivered, will be in full force and effect and constitutes a legal, valid and binding obligation of the Assignor, enforceable in accordance with its terms;
 - (f) there is no pending or threatened litigation, action, claim or fact known to the Assignor and not disclosed to the Assignee in writing which adversely affect or could adversely affect any of the Premises Hereby Assigned or the rights of the Assignor or any other party thereunder or the rights of the Assignee under this Agreement;
 - (g) none of the Premises Hereby Assigned in existence on the date hereof is incapable of assignment to the Assignee in accordance with the provisions of this Agreement, nor is any of the Premises Hereby Assigned incapable of further assignment by the Assignee or by any receiver or receiver and manager, nor is the consent of any third party required for any assignment set out in this Agreement or in connection with any further assignment by the Assignee; and
 - (h) no Rents, payments, proceeds, receipts or other distributions due or to become due on any date subsequent to the date of this Agreement have been collected in advance of the time when the same become due under the terms of any of the Premises Hereby Assigned.
8. **Enforcement Upon Default:** Without limiting in any manner whatsoever the Assignee's rights, remedies, and recourses pursuant to this Agreement, by operation of law or otherwise, if the Assignor has defaulted in the performance, fulfillment or satisfaction of any of the terms, agreements, provisions, conditions, obligations or covenants set out in this Agreement, the mortgage or any other agreement, document, instrument, commitment or undertaking entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee or if the Assignor is otherwise in breach of or in default (hereinafter collectively called a "Default") under this Agreement, the Mortgage or any other agreement, document, instrument, commitment or undertaking entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee, then the Assignee and any receiver or any receiver and manager appointed by the Assignee, may from time to time and at any time, in its own name or in the name of the Assignor and without notice to the Assignor, do any one or more of the following:
- (a) observe, perform or satisfy any term, agreement, provision, condition, obligation or covenant which, pursuant to any of the Premises Hereby Assigned, could or should be observed, performed or satisfied by the Assignor;

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- (b) exercise any of the rights, powers, authority and discretion which, pursuant to any of the Premises Hereby Assigned, by operation of law or otherwise, could be exercised, observed, performed or satisfied by the Assignor including, without limitation, amending and renewing the Leases and otherwise dealing with the Tenants and others and participating in all settlement negotiations and arbitration proceedings resulting from a dispute (the "Dispute") arising out of, in connection with or pursuant to any of the Premises Hereby Assigned; and
- (c) collect any Rents, proceeds, receipts or income arising from or out of the Premises Hereby Assigned including, without limitation, the institution of proceedings, whether in the name of the Assignor or the Assignee or both, for the collection of same.

The Assignor further acknowledges and agrees that all costs, charges and expenses incurred by the Assignee in connection with doing anything permitted in this paragraph 8 including, without limitation, legal fees and disbursements on a solicitor and his own client basis, shall be forthwith paid by the Assignor to the Assignee.

9. **Assignee Not Liable:** The Assignee shall not be bound to exercise any of the rights afforded to it hereunder nor to collect, dispose of, realize, preserve or enforce any of the Premises Hereby Assigned. The Assignee shall not be liable or responsible to the Assignor or any other person for the fulfillment or non-fulfillment of this Agreement or the terms, obligations, covenants or agreements set out in this Agreement or for any loss or damage incurred or suffered by the Assignor or any other person, firm or corporation as a result of:

- (a) any delay by, or any failure of, the Assignee to:
 - (i) exercise any of the rights afforded to it under this Agreement; or
 - (ii) collect, dispose of, realize, preserve or enforce any of the Premises Hereby Assigned; or
- (b) the negligence (but not the willful misconduct) of any officer, servant, agent, counsel or other attorney or substitute employed by the Assignee in the exercise of the rights afforded to the Assignee hereunder, or in the collection disposition, realization, preservation or enforcement of the Premises Hereby Assigned.

10. **Application of Funds:** Any amount received by the Assignee arising out of or from the collection, disposition, realization or enforcement of any of the Premises Hereby Assigned, after all costs, charges and expenses incurred by the Assignee in connection therewith have been deducted therefrom, shall be applied in reduction of the Indebtedness. Notwithstanding the generality of the foregoing, the Assignee shall be entitled to apply all or any part of such amounts received by it on account of such part or parts of the Indebtedness, in such manner and at such times or from time to time, as the Assignee deems best and the Assignee may at any time and from time to time change any such application.

11. **Further Assurances:** The Assignor covenants and agrees to execute all such further assignments and other documents and to do all such further acts and things including, without limitation, obtaining any consent which are required by the Assignee, from time to time, to more effectively assign, set over and transfer the Premises Hereby Assigned to the Assignee including, without limitation, execute and deliver one or more specific assignments of the Assignor's rights, benefits, title and interest in any of the agreements, documents, commitments and other writings that constitute the Premises Hereby Assigned in form, substance and execution satisfactory to the Assignee, to perfect and keep perfected the security interest constituted hereby and to assist in the collection, disposition, realization or enforcement thereof, and the Assignee is hereby irrevocably constituted the true and lawful attorney of the Assignor, with full power of substitution, to execute in the name of the Assignor any assignment or other document for such purposes.

12. **Information:** The Assignor covenants and agrees that from time to time forthwith upon the request of the Assignee it shall furnish to the Assignee in writing all information requested by the Assignee relating to the Premises Hereby Assigned.

13. **Payment of Rent Under Leases:** Until a Default occurs the Assignor shall have the authority:

- (a) to collect any Rents and other moneys properly payable or arising out of or from the Premises Hereby Assigned; and
- (b) subject to Section 6 hereof, to exercise in good faith all of the benefits, advantages and powers as landlord under the Premises Hereby Assigned;

and upon the occurrence of a Default such authority shall immediately cease without further notice and thereafter any monies received by the Assignor arising out of or from any of the Premises Hereby Assigned shall be received and held in trust for the Assignee and forthwith remitted to the Assignee. The Assignee may, at any time or times, by notice to any Tenant, direct such Tenant to pay Rent and other moneys to the Assignee and such notice shall be good and sufficient authority for any Tenant so doing. Any payment of Rents and other moneys by a Tenant to the Assignee shall not constitute a default under such Tenant's Lease. The receipt by the Assignee of Rent or other moneys from a Tenant shall constitute and be deemed receipt thereof by the Assignor.

14. **No Novation:** This assignment and transfer to the Assignee of the Premises Hereby Assigned:

- (a) is continuing security granted to the Assignee without novation or impairment of any other existing or future security held by the Assignee in order to secure payment to the Assignee of the Indebtedness and the due performance of the Assignor's obligation's under the Mortgage and all other agreements, documents, instruments, undertakings and commitments entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee relating to the Project;
- (b) is in addition to and not in substitution for any other security now or hereafter granted to or held by the Assignee in connection with the Indebtedness; and
- (c) shall remain in full force and effect without regard to and shall not be affected or impaired by:
 - (i) any amendment or modification of or addition or supplement to the Mortgage or any other security or securities (the "Additional Securities") now or hereafter held by or on behalf of the Assignee in connection with the Indebtedness or any part thereof;
 - (ii) any exercise or non-exercise of any right, remedy, power or privilege in respect of this Agreement, the Mortgage or the Additional Securities;
 - (iii) any waiver, consent, extension, indulgence or other action, inaction or omission under or in respect of this Agreement, the Mortgage or the Additional Securities;
 - (iv) any default by the Assignor under, or any invalidity or unenforceability of, or any limitation on the liability of the Assignor or on the method or terms of payment under, or any irregularity or other defect in, the Mortgage or the Additional Security;
 - (v) any merger, consolidation or amalgamation of the Assignor into or with any other company or corporation; or

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- (vi) any insolvency, bankruptcy, liquidation, reorganization, arrangement, composition, winding-up, dissolution or similar proceeding involving or affecting the Assignor.

15. **Re-assignment:** Upon the Indebtedness being paid in full, the Assignee shall, within a reasonable time following its receipt of a written request from the Assignor and at the sole cost and expense of the Assignor, reassign the Premises Hereby Assigned to the Assignor including, without limitation, all of the Assignee's rights, benefits, title and interest in and to the Premises Hereby Assigned.

16. **Enurement:** This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

17. **Notices:** Any notice, demand, request, consent, agreement or approval which may or is required to be given pursuant to this Agreement shall be in writing and shall be sufficiently given or made if served personally upon the party for whom it is intended, or (except in the case of an actual or pending disruption of postal service) mailed by registered mail:

- (a) if to the Assignor, addressed to it at:

Vandyk-Backyard Kings Mill Limited
1944 Fowler Drive
Mississauga, Ontario L5K 0A1

- (b) if to the Assignee, addressed to it at:

MCAP Financial Corporation
200 King Street West, Suite 400
Toronto, ON M5H 3T4

Any of the parties hereto may, from time to time, change its address or stipulate another address from the address described above in the manner provided in this paragraph. The date of receipt of any such notice, demand, request, consent, agreement or approval, if served personally, shall be deemed to be the date of delivery thereof, or if mailed as aforesaid, the fourth business day following the date of mailing. For the purposes hereof, personal service on the Assignor shall be effectively given by delivery to an officer, director or employee of the Assignor.

18. **Waiver:** No consent or waiver, express or implied, by the Assignee to or of any breach or default by the Assignor in the performance of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by the Assignor of its obligations hereunder. Failure on the part of the Assignee to complain of any act or failure to act of the Assignor or to declare the Assignor in default, irrespective of how long such failure continues, shall not constitute a waiver by the Assignee of its rights hereunder.

19. **Amendments:** This Agreement may not be modified or amended except with the written consent of the Assignee and the Assignor.

20. **Entire Agreement:** This Agreement constitutes the entire agreement between the Assignee and the Assignor pertaining to the assignment of the Premises Hereby Assigned and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, relating thereto.

21. **Assignment:** The Assignee may assign, transfer, negotiate, pledge or otherwise hypothecate this Agreement, any of the Premises Hereby Assigned, any of its rights hereunder or any part thereof and all rights and remedies of the Assignee in connection with the interest so assigned shall be enforceable against the Assignor as the same would have been by the Assignee

but for such assignment.

22. **No Agency, Joint Venture or Partnership:** The Assignee is not the agent, representative, partner of or joint-venturer with the Assignor, and the Assignor is not the agent, representative, partner of or joint-venturer with the Assignee, and this Agreement shall not be construed to make the Assignee liable to any person or persons for goods or services furnished to, on behalf of or for the benefit of the Assignor nor for debts, liability or claims accruing therefrom against the Assignor.

23. **Rights, Powers and Remedies:** Each right, power and remedy of the Assignee provided for herein or available at law or in equity or in any other agreement shall be separate and in addition to every other such right, power and remedy. Any one or more and/or any combination of such rights, remedies and powers may be exercised by the Assignee from time to time and no such exercise shall exhaust the rights, remedies or powers of the Assignee or preclude the Assignee from exercising any one or more of such rights, remedies and powers or any combination thereof from time to time thereafter or simultaneously.

24. **Survival:** All covenants, undertakings, agreements, representations and warranties made by the Assignor in this Agreement and any instruments delivered pursuant to or in connection herewith, shall survive the execution and delivery of this Agreement and any advances made by the Assignee to the Assignor, and shall continue in full force and effect until the Indebtedness is paid in full. All representations and warranties made by the Assignor shall be deemed to have been relied upon by the Assignee.

25. **Severability:** Any term, condition or provision of this Agreement which is or is deemed to be void, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be severable herefrom, be ineffective to the extent of such avoidance, prohibition or unenforceability without invalidating the remaining terms, conditions, and provisions hereof and any such avoidance, prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such term, condition or provision in any other jurisdiction.

26. **Governing Law:** This Agreement, and the interpretation, construction, application and enforcement of this Agreement, shall be governed by and construed, in all respects, exclusively in accordance with the laws of the Province of Ontario.

27. **Headings:** The insertion in this Agreement of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.


28. **Number and Gender:** All nouns and personal pronouns relating thereto shall be read and construed as the number and gender may require and the verb shall be read and construed as agreeing with the noun and pronoun.

29. **Registrations:** Neither the preparation, execution nor any registrations or filings with respect hereto, shall bind the Assignee to make an advance under the Mortgage.

30. **Receipt of Copy:** The Assignor acknowledges receipt of a copy of this Agreement.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

This is Exhibit "J" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

GENERAL SECURITY AGREEMENT

1. SECURITY INTEREST

- (a) For value received, Vandyk - Backyard Kings Mill Limited (the "Debtor"), hereby grants to MCAP Financial Corporation (the "Lender"), by way of mortgage, charge, assignment and transfer; a security interest (the "Security Interest") in the undertaking of the Debtor and in all Goods (including all parts, accessories, special tools, additions and accessions thereto), Chattel Paper, Documents of Title (whether negotiable or not), Instruments, Intangibles, and Securities now owned or hereafter owned or acquired by or on behalf of the Debtor (including such as may be returned to or repossessed by the Debtor) and in all proceeds and renewals thereof, accretions thereto and substitutions therefor (hereinafter collectively called "Collateral"), including without limitation, all of the following now owned or hereafter owned or acquired by or on behalf of the Debtor:
- i. all inventory of whatever kind and wherever situate ("Inventory");
 - ii. all equipment (other than Inventory) of whatever kind including, without limitation, all machinery, tools, apparatus, plant, furniture, fixtures and vehicles;
 - iii. all book accounts and book debts, rents and leases, all Agreements of Purchase and Sale entered into or to be entered into (including any deposits payable to the Debtor pursuant thereto) and generally all accounts, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, owing or accruing or growing due to or owned by or which may hereafter become due, owing or accruing or growing due to or owned by the Debtor ("Debts");
 - iv. all deeds, documents, writings, papers, books of account and other books relating to or being records of Debts, Chattel Paper or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable;
 - v. all contractual rights and insurance claims and all goodwill, patents, trademarks, copyrights, and other industrial property, licenses and permits;
 - vi. all contractual rights for the provision of materials, equipment and services to the lands described in Schedule "A" in connection with the construction and/or servicing upon the lands, including any applicable working drawings, plans, specifications, development and/or building approvals and permits in connection with the lands;
 - vii. all monies other than trust monies lawfully belonging to others, Certificates and Interest Bearing Accounts;
 - viii. all real property described in Schedule "A" attached hereto and all property described in any schedule now or hereafter annexed hereto.
- (b) Notwithstanding the generality of the foregoing, the Security Interest created by this Agreement affects only such Collateral associated with the Debtor's business and assets situate in the City of Toronto and more particularly described in Schedule "A" attached hereto (hereinafter called the "Premises").
- (c) The Security Interest granted hereby shall not extend or apply to and Collateral shall not include the last day of the term of any lease or agreement therefor but upon the enforcement of the Security Interest the Debtor shall stand possessed of such term.
- (d) The terms "Goods", "Chattel Paper", "Documents of Title", "Equipment", "Consumer Goods", "Instruments", "Intangibles", "Securities", "Proceeds", "Inventory", and "Accession" whenever used herein shall be interpreted pursuant to their respective meanings when used in the Personal Property Security Act of Ontario, as amended from time to time (herein referred to as the "P.P.S.A."). Provided always that the term "Goods" when used herein shall not include "consumer goods" of the Debtor as that term is defined in the P.P.S.A. Any reference herein to "Collateral" shall, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof". The terms "Proceeds" whenever used herein and interpreted as above shall by way of example include

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trade-ins, equipment, cash, bank accounts, notes, chattel paper, goods, contract rights, accounts and any other personal property or obligation received when such collateral or proceeds are sold, exchanged, collected or otherwise disposed of.

2. **INDEBTEDNESS SECURED**

The Security Interest granted hereby secures payment and satisfaction of any and all obligations, indebtedness and liability of the Debtor to the Lender arising out of a Letter of Commitment dated April 28, 2020 and pursuant thereto, a mortgage between the Debtor as Mortgagor and the Lender as Mortgagee charging the lands described in Schedule "A" hereto and securing for principal the sum of \$104,500,000.00 ("Charge") which indebtedness shall be fully satisfied upon payment in full of the said mortgage (hereinafter collectively called the "Indebtedness").

3. **REPRESENTATIONS AND WARRANTIES OF DEBTOR**

The Debtor represents and warrants and so long as this Security Agreement remains in effect shall be deemed to continuously represent and warrant that:

- (a) The Collateral is genuine and owned by the Debtor free of all interests, mortgages, liens, claims, charges or other encumbrances (hereinafter collectively called "Encumbrances"), save for the Security Interest and those Encumbrances shown on Schedule "B" or hereafter approved in writing by the Lender, prior to their creation or assumption;
- (b) Each Debt, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "Account Debtor"), and the amount represented by the Debtor to the Lender from time to time as owing by each Account Debtor or by all Account Debtors except for normal cash discounts where applicable, and no Account Debtor will have any defence, set off, claim or counterclaim against the Debtor which can be asserted against the Lender, whether in any proceeding to enforce Collateral or otherwise; and
- (c) The location specified in Schedule "A" as to business operations and records is accurate and complete and with respect to Goods constituting Collateral.

4. **COVENANTS OF THE DEBTOR**

So long as this Security Agreement remains in effect the Debtor covenants and agrees:

- (a) To defend the Collateral against the claims and demands of all other parties claiming the same or an interest therein; to keep the Collateral free from all Encumbrances, except for the Security Interest and those shown on Schedule "B" or hereafter approved in writing by the Lender, prior to their creation or assumption and not to sell, exchange, transfer, assign, lease, otherwise dispose of Collateral or any interest therein without the prior written consent of the Lender; provided always that, until default, the Debtor may, in the ordinary course of the Debtor's business, sell or lease Inventory and, subject to Clause 6 hereof, use monies available to the Debtor;
- (b) To notify the Lender promptly of:
 - i. any change in the information contained herein or in the Schedules hereto relating to the Debtor, the Debtor's business or Collateral;
 - ii. the details of any significant acquisition of Collateral;
 - iii. the details of any claims or litigation affecting Collateral;
 - iv. any loss or damage to Collateral;
 - v. any default by any Account Debtor in payment or other performance of his obligations with respect to Collateral; and
 - vi. the return to or repossession by the Debtor of Collateral;
- (c) To keep the Collateral in good order, condition and repair and not to use Collateral in violation of the provisions of this Security Agreement or any other agreement relating to Collateral or any policy insuring Collateral or any applicable statute, law,

by-law, rule, regulation or ordinance;

- (d) To do, execute, acknowledge and deliver such financing statements and further assignments, transfers, documents, acts, matters and things (including further schedules hereto) as may be reasonably requested by the Lender of or with respect to Collateral in order to give effect to these presents and to pay all costs for searches and filings in connection therewith;
- (e) To pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of the Collateral as and when the same become due and payable;
- (f) To insure the Collateral for such periods, in such amounts, on such terms and against loss or damage by fire and such other risks as the Lender shall reasonably direct with loss payable to the Lender and the Debtor, as insureds, as their respective interest may appear, and to pay all premiums therefor;
- (g) To prevent Collateral, save Inventory sold or leased as permitted hereby, from being or becoming an Accession to other property not covered by this Security Agreement;
- (h) To carry on and conduct the business of the Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for the Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral at the Lender's request so as to indicate the Security Interest;
- (i) To deliver to the Lender from time to time promptly upon request:
 - i. any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral;
 - ii. all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;
 - iii. all financial statements prepared by or for the Debtor regarding the Debtor's business;
 - iv. all policies and certificates of insurance relating to Collateral; and
 - v. such information concerning Collateral, the Debtor and business and affairs as the Lender may reasonably request;
- (j) To have the Premises professionally managed at all times.

5. **USE AND VERIFICATION OF COLLATERAL**

Subject to compliance with the Debtor's covenants herein and Clause 6 hereof, the Debtor may, until default, possess, operate, use, enjoy and deal with Collateral in the ordinary course of the Debtor's business in any manner not inconsistent with the provisions hereof; provided always that the Lender shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner the Lender may consider appropriate and the Debtor agrees to furnish all assistance and information and to perform all such acts as the Lender may reasonably request in connection therewith and for such purpose to grant to the Lender or its agents access to all places where Collateral may be located and to the premises described in Schedule "A".

6. **ASSIGNMENT OF RIGHTS UNDER AGREEMENTS OF PURCHASE AND SALE**

- (a) Although it is the intention of the parties that the assignment of all agreements of purchase and sale relating to the Premises (as set out in Paragraph 1(a)(iii)) ("Assignments of Rights") or rights arising therefrom shall be a present assignment, it is expressly understood and agreed, notwithstanding anything herein contained to the contrary, that the Lender shall not exercise any of the rights or powers herein conferred upon it except for the Lender's right to receive all sale proceeds (including deposits) received or to be received by the Debtor, pursuant to the agreements entered into for the sale of any portion of the Premises ("Agreements"), or any one

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of them, until default shall occur under the terms and provisions of this assignment or under the Charge, but upon the occurrence of any such default, this assignment shall constitute a direction and full authority to any purchaser under the Agreements, or any one of them, to deal with respect to all matters of the Agreements, or any one of them, exclusively with the Lender as if the Lender was the vendor thereunder, and such purchaser is hereby irrevocably authorized and directed by the Debtor to rely upon any notice from the Lender as to the authority to act as the vendor in all respects pursuant to the Agreements, or any one of them, without requiring any further proof of such authority.

- (b) In the exercise of the powers herein granted to the Lender no liability shall be asserted or enforced against the Lender, all such liability being expressly waived and released by the Debtor. The Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Agreements, or any one of them, unless and until the Lender expressly and specifically agrees to do so in writing by separate instrument and until such time all parties shall look strictly to the Debtor for the performance and discharge of any and all obligations under the Agreements, or any one of them. The Debtor shall and does hereby agree to indemnify the Lender for and to save and hold it harmless of and from any and all liabilities, losses, expenses, costs or damages which it may or might incur by reason of this assignment.
- (c) This Assignment of Rights under Agreements of Purchase and Sale is given as further security for the performance of the Debtor's obligations under the Charge and in the event of the exercise of the Lender's rights hereunder the Lender shall have the right to apply any sale proceeds or deposits received by it hereunder at its discretion as against principal, interest or costs owing pursuant to the Charge provided always that upon satisfaction in full of the indebtedness owing to the Lender under the Charge, all rights, benefits, and privileges under the Agreements shall be deemed to be reassigned and the Lender shall account for any excess monies held by it pursuant hereto (if any) to the Debtor.

7. ASSIGNMENT OF CASH SECURITY

- (a) As security for the Indebtedness or a letter or letters of credit (the "Letter of Credit") issued or to be issued or arranged by the Lender at the request of and for the benefit of the Debtor in favour of parties as contemplated in the Commitment Letter, the Debtor has agreed to assign and pledge to the Lender one or more Certificates and Interest Bearing Accounts. For purposes of this section the following words and phrases have the following meanings:
- i. "Act" means the Personal Property Security Act (Ontario), as it may be amended or reenacted from time to time;
 - ii. "Agreement" means this General Security Agreement, together with all schedules annexed hereto, all as the same may be from time to time supplemented, amended or otherwise modified in accordance with paragraph 12 hereof;
 - iii. "Debtor's Liabilities" means all present and future indebtedness and liabilities of the Debtor to the Lender under the Commitment Letter, the Charge and all other agreements, documents and security documents entered into between the Debtor and the Lender, made by the Debtor in favour of the Lender or assigned by the Debtor to the Lender relating to or in connection with the Commitment Letter;
 - iv. "Certificates" means one or more guaranteed investment certificates, certificates of deposit, term deposits and other interest bearing instruments now or hereafter issued by the Lender in the name of or on behalf of the Debtor evidencing the deposit of monies from time to time by the Debtor with the Lender for a specified term bearing a fixed rate of interest or otherwise entitling the bearer of such instruments to receive the principal amount stated therein at the rate of interest stated therein on a fixed date;
 - v. "Commitment Letter" means the Commitment Letter referred to between the parties referable to this transaction dated April 28, 2020, and any amendments thereto;

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- vi. **"Charge"** means the Charge issued by the Debtor to the Lender in the principal amount of \$104,500,000.00;
 - vii. **"Deposit"** means the sum to be deducted from the advance of funds or otherwise held by the Lender pursuant to the Commitment Letter, together with any and all interest actually earned thereon, to be invested pursuant to this Agreement, as security for the Debtor's Liabilities;
 - viii. **"Interest Bearing Accounts"** means one or more bank accounts now or hereafter established by the Lender in the name of or on behalf of the Debtor in which the Debtor deposits monies on a current basis from time to time at such rate of interest as is established, quoted or announced from time to time by the Lender;
 - ix. **"Letter of Credit"** means the letter or letters of credit now or hereafter issued or arranged by the Lender at the request of or on behalf of the Debtor in favour of parties as contemplated in the Commitment Letter;
 - x. **"Loan Documents"** means all present and future agreements, instruments and other documents, as same may be amended from time to time, made or assigned by the Debtor to the Lender in connection with the issue of the Letter of Credit; and
 - xi. **"Securities"** means all Interest Bearing Accounts and Certificates together with all renewals, replacements and substitutions therefore and all proceeds therefrom.
- (b) As continuing security for the payment of the Debtor's Liabilities, and for the performance, fulfilment and satisfaction of all covenants, obligations and conditions on the part of the Debtor set out herein, the Debtor:
- i. assigns, transfers and pledges the Deposit and the Securities to and in favour of the Lender; and
 - ii. grants a security interest in the Deposit and the Securities to and in favour of the Lender;
- as and by way of a fixed charge.
- (c) The Lender's only responsibility hereunder in regard to the Securities is limited to exercising the same degree of care which it gives valuable property of the Lender or any other customer of the Lender at the office where the Securities are held.
- (d) The Debtor acknowledges and agrees that the Lender is authorized and directed to invest and reinvest the Deposit and any other funds represented by the Securities in one or more Certificates or Interest Bearing Accounts from time to time for such periods as may be requested in writing by the Debtor; provided that none of the Certificates may be reinvested until its respective maturity date; and provided further that if the Lender has not received such written instructions before 1:00 o'clock in the afternoon on any date that the Deposit or any of the Certificates mature, then all of such funds may be invested or reinvested, as the case may be, for any period determined by the Lender from time to time in its absolute discretion, at rates of interest quoted by the Lender for the respective period or periods of any such Interest Bearing Account or Certificate on the date of any such investment or reinvestment.
- (e) All interest earned on the Securities shall accrue to the account of the Debtor and shall be held by the Lender in accordance with and subject to the same terms and conditions set out in this agreement.
- (f) The Lender and every employee or agent thereof, as the irrevocable attorney of the Debtor, may deal with all or any of the Securities and may fill in all blanks in any documents delivered to it and may complete Schedule "C" annexed hereto with the particulars of the Securities and the Lender may delegate its powers and any delegate may subdelegate the same, and any of the powers hereby given may be exercised in the name and on behalf of the successors of the Debtor.

Page 6

- (g) Any renewal, replacement or substituted Securities and all proceeds thereof including, without limitation, all Interest Bearing Accounts and Certificates shall be held by the Lender in accordance with and subject to the provisions of this Agreement.
- (h) The Lender is hereby authorized to sign on behalf of and as agent of the Debtor such income tax ownership certificates as may be required or the Lender may, in its discretion, require the Debtor to sign the same and the Debtor hereby covenants so to do.
- (i) This shall be a continuing agreement and the Securities assigned and pledged hereby are in addition to and not in substitution for any other security held by the Lender and shall not operate as a merger of any contract debt. All claims, present or future, of the Debtor against any person other than the Lender who is liable upon or for payment of any of the Securities are hereby assigned to the Lender.
- (j) The Debtor represents and warrants to the Lender that the Debtor is the legal owner of the Securities and that the Securities are unencumbered in any manner save as herein provided and that the Debtor has full power and authority to assign and pledge the Securities to the Lender hereunder.
- (k) Upon the failure by the Debtor to make due and punctual payment and/or satisfaction of the Debtor's Liabilities in the amounts and at the times provided for the Commitment Letter, the Charge or any other agreement, document or security document entered into between the Debtor and the Lender, made by the Debtor in favour of the Lender or assigned by the Debtor to the Lender, the security interest hereby granted shall immediately become enforceable at the option of the Lender, the Lender shall have the right and irrevocable authority to cash the Securities which are then the subject of this pledge and, at its sole and unfettered discretion, shall also have the right and irrevocable authority, without notice to the Debtor except as may be provided in the Act:
- i. to set-off or otherwise apply all or any part or parts of the proceeds thereof towards the payment of the Debtor's Liabilities and any part or parts thereof;
 - ii. to utilize the proceeds thereof to pay to the beneficiary of the Letter of Credit the amount owing to such beneficiary as a result of any call or demand for payment under such Letter of Credit;
 - iii. to retain an amount equal to the principal amount of the outstanding Letter of Credit as security for the liability of the Lender thereunder, without being obligated to attribute any part or parts of such amount on account of any specific part or parts of the Debtor's Liabilities, for such period or periods of time as any of such letters of credit remain outstanding. The Lender is hereby irrevocably authorized and directed to utilize such amount to pay to the beneficiary of such Letter of Credit any amounts called upon for payment under or pursuant to the terms of any Letter of Credit;
 - iv. to file such proof of claim or other documents as may be necessary or desirable to have its claim lodged in any bankruptcy, winding-up, liquidation, dissolution or other proceedings (voluntary or otherwise) relating to the Debtor;
 - v. to take any action, suit, remedy or proceeding authorized or permitted by this Agreement, the Act or by law or equity.
- (l) For greater certainty, this Agreement shall not preclude the right of the Lender to exercise any right of set-off it might obtain in respect of the Debtor's Liabilities other than pursuant to this Agreement or the Act.
- (m) To the extent not prohibited by law, the Debtor hereby waives the benefit of all of the provisions of the Act or any other legislation which would in any manner affect the rights or remedies of the Lender hereunder.
- (n) The Lender may compound, compromise, grant extensions of time and other

Page 7

indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with the Securities, the Debtor and with other parties and other securities as the Lender may reasonably see fit, without prejudice to the Debtor's Liabilities or to the Lender's rights in respect to the security hereby constituted. The Lender shall not be obliged to exhaust its recourses against the Debtor or any other party or parties or against any other security or securities held by the Lender from time to time before realizing or otherwise disposing of or dealing with the Securities in such manner as the Lender sees fit.

- (o) In consideration of the Lender issuing or causing to be issued the Letter of Credit in favour of parties as contemplated in the Commitment Letter from time to time, the Debtor unconditionally and irrevocably agrees:
- i. to indemnify and save the Lender harmless against all actions, losses, costs, charges, damages, expenses, liabilities, claims and demands of whatsoever nature and kind, which the Lender may howsoever incur or sustain by reason of or in connection with the Letter of Credit;
 - ii. to accept any claim or demand on the Lender as conclusive evidence that the Lender was liable to make payment thereunder and any payment made pursuant to such claim or demand which purports to be in accordance with the Letter of Credit or any steps taken by the Lender in good faith under or in connection with the Letter of Credit shall be binding upon the Debtor and shall not place the Lender under any liability to the Debtor;
 - iii. that the Lender shall have no liability or responsibility to the Debtor for the form, sufficiency, correctness, genuineness or legal effect of the Letter of Credit or for the good faith or acts of the holder of the Letter of Credit;
 - iv. that the rights and powers conferred by this paragraph and the indemnity hereinafter are in addition to and without prejudice to any other rights which the Lender may have pursuant to this Agreement, the Commitment Letter, the Charge or any other agreement, document or security document entered into between the Debtor and the Lender, made by the Debtor in favour of the Lender or assigned by the Debtor to the Lender.

8. COLLECTION OF DEBTS

Before or after default under this Security Agreement, the Lender may notify all or any Account Debtors of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to the Lender. The Debtor acknowledges that any payments on or other proceeds of Collateral received by the Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after default under this Security Agreement shall be received and held by the Debtor in trust for the Lender and shall be turned over to the Lender upon request.

9. DISPOSITION OF MONIES

Subject to any application requirements of the P.P.S.A., all monies collected or received by the Lender pursuant to or in exercise of any right it possesses with respect to Collateral shall be applied on account of Indebtedness in such manner as the Lender deems best or, at the option of the Lender, may be held unappropriated in a collateral account or released to the Debtor, all without prejudice to the liability of the Debtor or the rights of the Lender hereunder, and any surplus shall be accounted for as required by law.

10. EVENTS OF DEFAULT

The happening of any of the following events or conditions shall constitute default hereunder (hereinafter referred to as "default"):

- (a) The nonpayment when due, whether by acceleration or otherwise, of any principal or interest forming part of Indebtedness or the failure of the Debtor to observe or perform any obligation, covenant, term, provision, or condition contained in this Security Agreement or any other document or agreement between the Debtor and the Lender relating to the Indebtedness;
- (b) The bankruptcy or insolvency of the Debtor; the filing against the Debtor of a

petition in bankruptcy; the making of an authorized assignment for the benefit of creditors by the Debtor; the appointment of a receiver or trustee for the Debtor or for any assets of the Debtor or the institution by or against the Debtor of any other type of insolvency proceeding under the Bankruptcy Act or otherwise:

- (c) Abandonment of the premises by the Debtor for a period in excess of eight (8) consecutive days and which the Debtor has not rectified within ten (10) days after delivery by the Lender to the Debtor of written notice of any abandonment.

11. REMEDIES

- (a) Upon default, the Lender may appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Lender or not, to be a receiver or receivers (hereinafter called a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor and not the Lender and the Lender shall not be in any way responsible for any misconduct, negligence, or non-feasance on the part of any such Receiver, his servants, agents or employees. Subject to the provisions of the instruments appointing him, any such Receiver shall have the power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of the Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including the Debtor, enter upon, use and occupy all premises owned or occupied by the Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on the Debtor's business or otherwise, as such Receiver shall, in his discretion, determine. Except as may be otherwise directed by the Lender, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to the Lender. Every such Receiver may, in the discretion of the Lender, be vested with all or any of the rights and powers of the Lender.
- (b) Upon default, the Lender may, either directly or indirectly or through its agents or nominees, exercise any or all of the powers and rights given to a Receiver by virtue of the foregoing sub-clause (a).
- (c) The Lender may take possession of, collect, demand, sue on, enforce, recover and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof and, upon default, the Lender may sell, lease or otherwise dispose of Collateral in such manner, at such time or times and place or places, for such consideration and upon such terms and conditions as to the Lender may seem reasonable.
- (d) In addition to those rights granted herein and in any other agreement now or hereafter in effect between the Debtor and the Lender and in addition to any other rights the Lender may have at law or in equity, the Lender shall have, both before and after default, all rights and remedies of a secured party under the P.P.S.A. Provided always, that the Lender shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes. Furthermore, the Lender shall have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper whether Collateral or proceeds and whether or not in the Lender's possession and shall not be liable or accountable for failure to do so.
- (e) The Debtor acknowledges that the Lender or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and the Debtor agrees upon request from the Lender or any such Receiver to assemble and deliver possession of Collateral at such place or places as directed.
- (f) The Debtor agrees to pay all costs, charges and expenses reasonably incurred by the Lender or any Receiver appointed by it, whether directly or for services rendered (including reasonable solicitors and auditors costs and other legal expenses and Receiver remuneration), in operating the Debtor's accounts, in preparing or enforcing

Page 9

this Security Agreement, taking custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses, together with any monies owing as a result of any borrowing by the Lender or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

- (g) The Lender will give the Debtor such notice, if any, of the date, time and place of any public sale or of the date after which any private disposition of Collateral is to be made, as may be required by the P.P.S.A.
- (h) Upon failure of the Debtor to have the Premises professionally managed in accordance with clause 4(j) hereof, the Lender may, but shall not be obligated to appoint such professional manager or managers, as it may deem necessary in its sole discretion, to manage the Premises at the sole expense of the Debtor.

12. MISCELLANEOUS

- (a) The Debtor hereby authorizes the Lender to file such financing statements and other documents and do such acts, matters and things (including completing and adding schedules hereto identifying Collateral or any permitted Encumbrances affecting Collateral) as the Lender may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest, and the Debtor hereby irrevocably constitutes and appoints the Lender the true and lawful attorney of the Debtor, with the full power of substitution, to do any of the foregoing in the name of the Debtor whenever and wherever it may be deemed necessary or expedient.
- (b) Upon the Debtor's failure to perform any of its duties hereunder, the Lender may, but shall not be obligated to, perform any or all such duties, and the Debtor shall pay to the Lender, forthwith upon written demand therefor, an amount equal to the expense incurred by the Lender in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate per annum set forth in the said mortgage.
- (c) The Lender may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with the Debtor, sureties and others and with Collateral and other security as the Lender may see fit without prejudice to the liability of the Debtor or the Lender's right to hold and realize the Security Interest. Furthermore, the Lender may demand, collect and sue on Collateral in either the Debtor's or the Lender's name on any and all cheques, commercial paper, and any other Instrument pertaining to or constituting Collateral.
- (d) No delay or omission by the Lender in exercising any right or remedy hereunder or with respect to any indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Furthermore, the Lender may remedy any default by the Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the Debtor. All rights and remedies of the Lender granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (e) The Debtor waives protest of any Instrument constituting Collateral at any time held by the Lender on which the Debtor is in any way liable and notice of any other action taken by the Lender.
- (f) This Security Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- (g) Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Security Agreement shall be made except by a written Agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.
- (h) Subject to any provisions of this Agreement to the contrary, whenever either party hereto is required or entitled to notify or direct the other or to make a demand or

Page 10

request upon the other, such notice, direction, demand or request shall be in writing and shall be sufficiently given only if delivered to the party for whom it is intended at the principal address of such party herein set forth or as changed pursuant hereto or if sent by prepaid registered mail addressed to the party for whom it is intended at the principal address of such party herein set forth or as changed pursuant hereto. Either party may notify the other pursuant hereto of any change in such party's principal address to be used for the purpose hereof.

The address of each party is as follows:

Debtor:

Vandyk - Backyard Kings Mill Limited
1944 Fowler Drive
Mississauga, ON L5K 0A1

Lender:

MCAP Financial Corporation
200 King Street West, Suite 400
Toronto, ON M5H 3T4

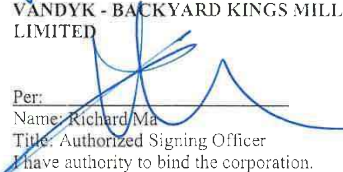
- (i) This Security Agreement and the security afforded hereby shall remain in full force and effect until all Indebtedness contracted for or created, shall be paid in full.
- (j) The headings used in this Security Agreement are for convenience only and are not to be considered a part of this Security Agreement and do not in any way limit or amplify the terms and provisions of this Security Agreement.
- (k) When the context so requires, the singular number shall be read as if the plural were expressed and the provisions hereof shall be read with all grammatical changes necessary dependent upon the person referred to being a male, female, firm or corporation.
- (l) In the event any provisions of this Security Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court of competent jurisdiction, the remaining terms and provisions of this Security Agreement shall remain in full force and effect.
- (m) Nothing herein contained shall in any way obligate the Lender to grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.
- (n) The Security Interest created hereby is intended to attach when this Security Agreement is signed by the Debtor and delivered to the Lender.

13. COPY OF AGREEMENT

The Debtor hereby acknowledges receipt of a copy of this Security Agreement.

IN WITNESS WHEREOF the Debtor has executed this Security Agreement under the hand of its authorized signing officers as of this 7th day of July, 2020.

VANDYK - BACKYARD KINGS MILL
LIMITED

Per: 
Name: Richard Ma
Title: Authorized Signing Officer
I have authority to bind the corporation.

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SCHEDULE "A"

PIN No. 07500-0082 (LT) - 15 Neighbourhood Lane, Etobicoke, Ontario

PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN
66R28992
City of Toronto
Province of Ontario
Toronto Land Registry Office (No. 80)

Page 12

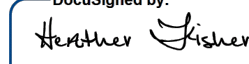
SCHEDULE "B"

- NIL -

SCHEDULE "C" - Pursuant to Paragraph 7 - Assignment of Cash Security

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "K" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0



PERSONAL PROPERTY SECURITY REGISTRATION
SYSTEM (ONTARIO) ENQUIRY RESULTS

Prepared for : Gowling WLG (Canada) LLP - Toronto
Docket : T1033750
Search ID : 942909
Date Processed : 10/16/2023 10:51:02 AM
Report Type : PPSA Electronic Response
Search Conducted on : Vandyk-Backyard Kings Mill Limited
Search Type : Business Debtor

DISCLAIMER :

This report has been generated using data provided by the Personal Property Registration Branch, Ministry of Government Services, Government of Ontario. No liability is undertaken regarding its correctness, completeness, or the interpretation and use that are made of it.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

RESPONSE CONTAINS: APPROXIMATELY 4 FAMILIES and 11 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE
INTERPRETATION AND USE THAT ARE MADE OF IT.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 4 ENQUIRY PAGE : 1 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

00 FILE NUMBER : 740262222 EXPIRY DATE : 07JUN 2028 STATUS :
 01 CAUTION FILING : PAGE : 001 OF 001 MV SCHEDULE ATTACHED :
 REG NUM : 20180607 1459 1862 5023 REG TYP: P PPSA REG PERIOD: 5
 02 IND DOB : IND NAME:
 03 BUS NAME: VANDYK - BACKYARD KINGS MILL LIMITED
 OCN :
 04 ADDRESS : 1944 FOWLER DRIVE
 CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5K 0A1
 05 IND DOB : IND NAME:
 06 BUS NAME:
 OCN :
 07 ADDRESS :
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :
 MERIDIAN CREDIT UNION LIMITED
 09 ADDRESS : 75 CORPORATE PARK DRIVE
 CITY : ST. CATHARINES PROV: ON POSTAL CODE: L2S 3W3
 CONS. MV DATE OF OR NO FIXED
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
 10 X X X X X
 YEAR MAKE MODEL V.I.N.

11
 12

GENERAL COLLATERAL DESCRIPTION

13 NOTICE - SECURITY AGREEMENT CONTAINS COVENANT BY DEBTOR NOT TO GRANT
 14 SECURITY INTERESTS IN OR TRANSFER TO THIRD PARTIES THE COLLATERAL
 15 WITHOUT THE CONSENT OF THE SECURED PARTY.
 16 AGENT: DALE & LESSMANN LLP (GTW)
 17 ADDRESS : 181 UNIVERSITY AVENUE, SUITE 2100
 CITY : TORONTO PROV: ON POSTAL CODE: M5H 3M7

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 1 OF 4 ENQUIRY PAGE : 2 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

FILE NUMBER 740262222

PAGE TOT REGISTRATION NUM REG TYPE

01 CAUTION : 001 OF 1 MV SCHED: 20230515 1114 1532 8952

21 REFERENCE FILE NUMBER : 740262222

22 AMEND PAGE: NO PAGE: CHANGE: B RENEWAL REN YEARS: 5 CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME: VANDYK - BACKYARD KINGS MILL LIMITED

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

10

11

12

13

14

15

16 NAME : D + H LIMITED PARTNERSHIP

17 ADDRESS : 2 ROBERT SPECK PARKWAY, 15TH FLOOR

CITY : MISSISSAUGA PROV : ON POSTAL CODE : L4Z 1H8

END OF FAMILY

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 4 ENQUIRY PAGE : 3 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

00 FILE NUMBER : 753408873 EXPIRY DATE : 24AUG 2023 STATUS : D DISCHARGED

01 CAUTION FILING : PAGE : 001 OF 2 MV SCHEDULE ATTACHED :

REG NUM : 20190716 1525 1793 7021 REG TYP: P PPSA REG PERIOD: 5

02 IND DOB : IND NAME:

03 BUS NAME: VANDYK-BACKYARD QUEENSVIEW LIMITED

OCN :

04 ADDRESS : 1944 FOWLER DRIVE

CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5K0A1

05 IND DOB : IND NAME:

06 BUS NAME: VANDYK-BACKYARD HUMBERSIDE LIMITED

OCN :

07 ADDRESS : 1944 FOWLER DRIVE

CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5K0A1

08 SECURED PARTY/LIEN CLAIMANT :

KINGSETT MORTGAGE CORPORATION

09 ADDRESS : 40 KING STREET WEST, SUITE 3700

CITY : TORONTO PROV: ON POSTAL CODE: M5H3Y2

CONS. MV DATE OF OR NO FIXED

GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

10 X X X X X

YEAR MAKE MODEL V.I.N.

11

12

GENERAL COLLATERAL DESCRIPTION

13 SECURITY AGREEMENTS, INCLUDING A GENERAL SECURITY AGREEMENT, GENERAL

14 ASSIGNMENT OF RENTS AND CHARGE OF BENEFICIAL INTEREST CREATING

15 SECURITY INTERESTS IN ALL PRESENT AND FUTURE PERSONAL PROPERTY OF

16 AGENT: ROBINS APPLEBY LLP (CINDY APPLGATH)

17 ADDRESS : 120 ADELAIDE ST. WEST SUITE 2600

CITY : TORONTO PROV: ON POSTAL CODE: M5H1T1

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 2 OF 4 ENQUIRY PAGE : 4 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

00 FILE NUMBER : 753408873 EXPIRY DATE : 24AUG 2023 STATUS : D DISCHARGED

01 CAUTION FILING : PAGE : 002 OF 2 MV SCHEDULE ATTACHED :

REG NUM : 20190716 1525 1793 7021 REG TYP: REG PERIOD:

02 IND DOB : IND NAME:

03 BUS NAME: VANDYK-BACKYARD KINGS MILL LIMITED

OCN :

04 ADDRESS : 1944 FOWLER DRIVE

CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5K0A1

05 IND DOB : IND NAME:

06 BUS NAME:

OCN :

07 ADDRESS :

CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :

CITY : PROV: POSTAL CODE:

CONS. MV DATE OF OR NO FIXED

GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

10

YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

13 THE DEBTORS LOCATED AT 1, 15 AND 25 NEIGHBOURHOOD LANE, TORONTO

14 ONTARIO

15

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 2 OF 4 ENQUIRY PAGE : 5 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

FILE NUMBER 753408873

PAGE TOT REGISTRATION NUM REG TYPE

01 CAUTION : 001 OF 2 MV SCHED: 20201127 1114 1793 2315

21 REFERENCE FILE NUMBER : 753408873

22 AMEND PAGE: NO PAGE: CHANGE: A AMNDMNT REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME: VANDYK-BACKYARD QUEENSVIEW LIMITED

25 OTHER CHANGE:

26 REASON: THE SECURED PARTY HEREBY RELEASES VANDYK-BACKYARD HUMBERSIDE

27 /DESCR: LIMITED AND VANDYK-BACKYARD KINGS MILL LIMITED FROM PPSA FILE NO.

28 : 753408873 AND DELETES ALL REFERENCES TO 1 AND 15 NEIGHBOURHOOD

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

10

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15

16 NAME : ROBINS APPLEBY LLP

17 ADDRESS : 120 ADELAIDE ST. WEST SUITE 2600

CITY : TORONTO PROV : ON POSTAL CODE : M5H1T1

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 2 OF 4 ENQUIRY PAGE : 6 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

FILE NUMBER 753408873

PAGE TOT REGISTRATION NUM REG TYPE

01 CAUTION : 002 OF 2 MV SCHED: 20201127 1114 1793 2315

21 REFERENCE FILE NUMBER : 753408873

22 AMEND PAGE: NO PAGE: CHANGE: REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME:

25 OTHER CHANGE:

26 REASON: LANE, TORONTO ONTARIO THEREFROM. .

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME :

17 ADDRESS :

CITY : PROV : POSTAL CODE :

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

FAMILY : 2 OF 4 ENQUIRY PAGE : 7 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

FILE NUMBER 753408873

PAGE TOT REGISTRATION NUM REG TYPE

01 CAUTION : 001 OF 1 MV SCHED: 20230824 1628 1590 7576

21 REFERENCE FILE NUMBER : 753408873

22 AMEND PAGE: NO PAGE: CHANGE: C DISCHRG REN YEARS: CORR PER:

23 REFERENCE DEBTOR/ IND NAME:

24 TRANSFEROR: BUS NAME: VANDYK-BACKYARD QUEENSVIEW LIMITED

25 OTHER CHANGE:

26 REASON:

27 /DESCR:

28 :

02/05 IND/TRANSFEE:

03/06 BUS NAME/TRFEE:

OCN:

04/07 ADDRESS:

CITY: PROV: POSTAL CODE:

29 ASSIGNOR:

08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE :

09 ADDRESS :

CITY : PROV : POSTAL CODE :

CONS. MV DATE OF NO FIXED

GOODS INVTRY EQUIP ACCTS OTHER INCL AMOUNT MATURITY OR MAT DATE

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16 NAME : SCHNEIDER RUGGIERO SPENCER MILBURN LLP

17 ADDRESS : 1000-120 ADELAIDE STREET WEST

CITY : TORONTO PROV : ON POSTAL CODE : M5H 3V1

END OF FAMILY

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 3 OF 4 ENQUIRY PAGE : 8 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

00 FILE NUMBER : 756735498 EXPIRY DATE : 22OCT 2029 STATUS :
 01 CAUTION FILING : PAGE : 001 OF 003 MV SCHEDULE ATTACHED :
 REG NUM : 20191022 0840 1862 0342 REG TYP: P PPSA REG PERIOD: 10
 02 IND DOB : IND NAME:
 03 BUS NAME: VANDYK-BACKYARD KINGS MILL LIMITED
 OCN :
 04 ADDRESS : 1944 FOWLER DRIVE
 CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5K 0A1
 05 IND DOB : IND NAME:
 06 BUS NAME:
 OCN :
 07 ADDRESS :
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :
 WESTMOUNT GUARANTEE SERVICES INC., AS ADMINISTRATIVE AGENT FOR THE SURE
 09 ADDRESS : C/O 600 COCHRANE DRIVE, SUITE 205
 CITY : MARKHAM PROV: ON POSTAL CODE: L3R 5K3
 CONS. MV DATE OF OR NO FIXED
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
 10 X X
 YEAR MAKE MODEL V.I.N.
 11
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GENERAL COLLATERAL DESCRIPTION

13 SECURITY INTEREST IN ALL DEPOSIT MONIES (AND IN ALL WARRANTY
 14 RETENTION MONIES REQUIRED TO BE DEPOSITED BY THE DEBTOR TO SECURE ANY
 15 OUTSTANDING OBLIGATIONS TO OR IN FAVOUR OF THE SECURED PARTY)
 16 AGENT: SCHNEIDER RUGGIERO SPENCER MILBURN LLP (41358/BM)
 17 ADDRESS : 1000-120 ADELAIDE STREET WEST
 CITY : TORONTO PROV: ON POSTAL CODE: M5H 3V1

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

MINISTRY OF CONSUMER AND BUSINESS SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 3 OF 4 ENQUIRY PAGE : 9 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

00 FILE NUMBER : 756735498 EXPIRY DATE : 22OCT 2029 STATUS :
 01 CAUTION FILING : PAGE : 002 OF 003 MV SCHEDULE ATTACHED :
 REG NUM : 20191022 0840 1862 0342 REG TYP: REG PERIOD:
 02 IND DOB : IND NAME:
 03 BUS NAME:
 OCN :
 04 ADDRESS :
 CITY : PROV: POSTAL CODE:
 05 IND DOB : IND NAME:
 06 BUS NAME:
 OCN :
 07 ADDRESS :
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :
 TY
 09 ADDRESS :
 CITY : PROV: POSTAL CODE:
 CONS. MV DATE OF OR NO FIXED
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
 10
 YEAR MAKE MODEL V.I.N.
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GENERAL COLLATERAL DESCRIPTION

13 PURSUANT TO A DEPOSIT TRUST AGREEMENT DATED SEPTEMBER 25, 2019, AS
 14 MAY BE AMENDED OR SUPPLEMENTED HEREAFTER FROM TIME TO TIME, IN
 15 RESPECT OF A 234 UNIT TARIION TYPE D CONDOMINIUM PROJECT MARKETED AS
 16 AGENT:
 17 ADDRESS :
 CITY : PROV: POSTAL CODE:

CONTINUED

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 3 OF 4 ENQUIRY PAGE : 10 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

00 FILE NUMBER : 756735498 EXPIRY DATE : 22OCT 2029 STATUS :
01 CAUTION FILING : PAGE : 003 OF 003 MV SCHEDULE ATTACHED :
REG NUM : 20191022 0840 1862 0342 REG TYP: REG PERIOD:
02 IND DOB : IND NAME:
03 BUS NAME:
OCN :
04 ADDRESS :
CITY : PROV: POSTAL CODE:
05 IND DOB : IND NAME:
06 BUS NAME:
OCN :
07 ADDRESS :
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS :
CITY : PROV: POSTAL CODE:
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10
YEAR MAKE MODEL V.I.N.
11
12

GENERAL COLLATERAL DESCRIPTION

13 BACKYARD NEIGHBOURHOOD CONDOS - THE KINGS MILL TO BE MUNICIPALLY
14 KNOWN AS 15 NEIGHBOURHOOD LANE, ETOBICOKE, ONTARIO OR SUCH OTHER
15 ADDRESS AS THE CITY OF TORONTO MAY HEREAFTER DESIGNATE).

16 AGENT:

17 ADDRESS :
CITY : PROV: POSTAL CODE:

END OF FAMILY

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

MINISTRY OF CONSUMER AND BUSINESS SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: Vandyk-Backyard Kings Mill Limited

FILE CURRENCY: October 15, 2023

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 4 OF 4 ENQUIRY PAGE : 11 OF 11

SEARCH : BD : VANDYK-BACKYARD KINGS MILL LIMITED

00 FILE NUMBER : 763058511 EXPIRY DATE : 25JUN 2025 STATUS :
01 CAUTION FILING : PAGE : 01 OF 001 MV SCHEDULE ATTACHED :
REG NUM : 20200625 1407 1462 0774 REG TYP: P PPSA REG PERIOD: 5
02 IND DOB : IND NAME:
03 BUS NAME: VANDYK - BACKYARD KINGS MILL LIMITED
OCN : 002509402
04 ADDRESS : 1944 FOWLER DRIVE
CITY : MISSISSAUGA PROV: ON POSTAL CODE: L5K0A1
05 IND DOB : IND NAME:
06 BUS NAME:
OCN :
07 ADDRESS :
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

MCAP FINANCIAL CORPORATION

09 ADDRESS : 200 KING STREET WEST, SUITE 400

CITY : TORONTO PROV: ON POSTAL CODE: M5H3T4
CONS. MV DATE OF OR NO FIXED
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE
10 X X X X
YEAR MAKE MODEL V.I.N.

11

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GENERAL COLLATERAL DESCRIPTION

13 ASSIGNMENT OF RENTS AND LEASES, GENERAL SECURITY AGREEMENT AND
14 ASSIGNMENT OF CASH COLLATERAL RELATING TO THAT PROPERTY BEING 15
15 NEIGHBOURHOOD LANE, ETOBICOKE, ONTARIO
16 AGENT: GARFINKLE, BIDERMAN LLP (AWB-CJC - 9150-084)
17 ADDRESS : 1 ADELAIDE ST. EAST, SUITE 801
CITY : TORONTO PROV: ON POSTAL CODE: M5C2V9
LAST SCREEN

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "L" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

SHARE PLEDGE AGREEMENT

THIS AGREEMENT made as of the day of , 2020.

B E T W E E N:

VANDYK HOLDINGS INCORPORATED
(hereinafter called the "Pledgor")

OF THE FIRST PART;

- and -

MCAP FINANCIAL CORPORATION
(hereinafter called the "Lender")

OF THE SECOND PART.

WHEREAS the Lender has agreed to lend to Vandyk - Backyard Kings Mill Limited (the "Borrower") and the Borrower has agreed to borrow from the Lender the principal sum of up to \$83,555,000.00 (as secured by a Mortgage in the amount of \$104,500,000.00) pursuant to loan arrangements entered into between Vandyk - Backyard Kings Mill Limited and the Lender in accordance with a letter of commitment dated April 28, 2020, as amended if applicable (hereinafter referred to as the "Commitment").

AND WHEREAS the Pledgor is the only shareholder of the Borrower and has agreed to guarantee the indebtedness and obligations of the Borrower in favour of the Lender and to pledge certain shares held by the Pledgor in the capital stock of the Borrower being a total of 100 shares thereof representing one hundred (100%) percent of the issued and outstanding shares of the capital stock of the Borrower (the "Pledged Shares"), as security for, inter alia, the due repayment of the indebtedness, as hereinafter defined, of the Pledgor to the Lender.

AND WHEREAS the Pledgor and the Lender have agreed that the Pledged Shares shall be pledged subject to and in accordance with the terms and conditions hereinafter set forth.

NOW THEREFORE this Agreement witnesseth that in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1. – DEFINITIONS

1.1 For the purposes of this Agreement, the following words and expressions shall have the meaning indicated:

- (a) "Agreement", "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to this share pledge agreement and not to any particular section or other portion hereof, and include any and every schedule or instrument supplemental or ancillary hereto or in implementation hereof;

- 2 -

- (b) "Business Day" means a day other than a Saturday, Sunday or a statutory holiday or any other day upon which the Lender is not open for the transaction of business throughout normal business hours at its principal office in Toronto, Ontario, Canada;
- (c) "Corporation" means Vandyk - Backyard Kings Mill Limited a corporation incorporated under the laws of the Province of Ontario;
- (d) "Event of Default" means any default of the Borrower pursuant to any provision of the Commitment or any of the security documents relating to the Indebtedness which is not cured after notice;
- (e) "Indebtedness" means the principal sum of up to \$83,555,000.00 (as secured by a Mortgage in the amount of \$104,500,000.00) to be advanced by the Lender under the provisions of the Commitment and all interest accruing due thereon which Indebtedness has been guaranteed by the Pledgor;
- (f) "Pledged Shares" means a total 100 common shares in the capital of the Corporation owned by the Pledgor representing in total one hundred (100%) of the issued and outstanding shares of the capital stock of the Corporation to be pledged by the Pledgor in favour of the Lender pursuant to this Agreement.

ARTICLE 2. - SECURITY INTEREST

2.1 The Pledgor hereby pledges and grants a security interest in the Pledged Shares and all substitutions therefor and accretions thereto and all income therefrom to the Lender as a general and continuing security for the payment of the Indebtedness (hereinafter referred to as the "Obligations").

2.2 The Pledgor shall deliver the share certificate(s) representing the Pledged Shares to the Lender together with the stock transfer powers attached thereto endorsed in blank for transfer and the Lender shall hold the Pledged Shares in accordance with the terms and conditions in this Agreement. The Pledgor does hereby covenant and agree that, so long as this agreement remains in effect, it will not permit any additional shares of the capital stock of the Corporation to be issued without the prior written consent of the Lender, which consent may be arbitrarily withheld. Subject to the provisions of Section 3.1, upon the occurrence of an Event of Default, the Lender shall be entitled to be entered on the books of the Corporation as registered owner of the Pledged Shares, and the Lender and its nominees are hereby empowered to exercise all rights and powers and to perform all acts of ownership in respect of the Pledged Shares to the same extent as the Pledgor might do and the Pledgor shall forthwith repay all consequent outlay and expense with interest at the rate applicable to the Indebtedness. So long as the Pledgor is not in default hereunder, the Pledgor shall be entitled to receive all distributions paid in respect of the Pledged Shares and shall be entitled to exercise all voting rights in respect of the Pledged Shares.

2.3 The Pledgor shall also deliver to the Lender upon the terms and conditions in this

- 3 -

Agreement the following:

- (i) Stock Transfer Power of Attorney in the form set out on Schedule "A";
- (ii) Resignation in the form set out on Schedule "B";
- (iii) Waiver in the form set out on Schedule "C";
- (iv) Authority to Complete in the form set out on Schedule "D";
- (v) Irrevocable Proxy in the form set out on Schedule "E";

in order to effect the transfer of the Pledged Shares to the Lender or to such other purchaser thereof as may be identified from time to time by the Lender upon an Event of Default and realization as provided hereunder.

2.4 The Pledgor does hereby irrevocably appoint any authorized officer of the Lender as its true and lawful attorney, with full powers of substitution, for it and in its name, for all purposes of this Agreement, including without limitation, to endorse and/or transfer the Pledged Shares to the Lender or its nominees. This power of attorney is given pursuant to the Powers of Attorney Act (Ontario).

2.5 The Lender agrees to hold the share certificates and other documents as described in this Article 2 in accordance with the terms hereof.

ARTICLE 3. - PLEDGE TERMS

3.1 All income from the Pledged Shares may be held by the Lender as security as provided for in Section 2.1 and/or from time to time applied against any of the Obligations as the Lender deems best, provided that the Lender shall not exercise its rights hereunder except upon the occurrence of an Event of Default.

3.2 The Lender shall be bound to exercise, in the keeping of the Pledged Shares, only the same degree of care as if they were the property of the Lender and as if the Lender were keeping them at the branch of the Lender in which they are held. All claims, present and future, of the Pledgor against any person liable upon or for the payment with respect to any of the Pledged Shares are hereby assigned to the Lender.

ARTICLE 4. - TERMINATION OR EVENT OF DEFAULT

4.1 The pledge granted pursuant to this Agreement shall terminate upon repayment in full of the Indebtedness and satisfaction of all of the Obligations.

Upon the repayment in full to the Lender of the Indebtedness and satisfaction of all of the obligations, the Pledgor shall be entitled to require the Lender to deliver over the Pledged Shares to the Pledgor free and clear of any encumbrances or liens and to execute such further and other assurances as may be required to complete properly any necessary reconveyance or transfer to the Pledgor.

- 4 -

4.2 Upon the occurrence of an Event of Default, the Lender may proceed to sell the Pledged Shares of the Corporation at a public or private sale or otherwise realize upon all or any of the Pledged Shares for such price in money or other consideration and upon such terms and conditions as the Lender deems best. In the event the Lender elects to proceed with a sale of the Pledged Shares, the Lender shall apply the proceeds to the following and in the following order of priority;

- (a) reasonable expenses for holding, processing, preparing for disposition and disposing of the Pledged Shares and including, without limiting the generality of the foregoing, any reasonable solicitors fees;
- (b) payment in full of and satisfaction of the Obligations; and
- (c) payment of any surplus to the Pledgor.

ARTICLE 5. - GENERAL

5.1 The security granted herein is in addition to and not in substitution for any other security now or hereafter held by the Lender in relation to the Indebtedness.

5.2 This Agreement and the Pledged Shares shall not operate by way of merger of the Indebtedness or any indebtedness or liability of any other person or persons to the Lender and no judgment recovered by the Lender shall operate by way of merger of or in any way affect the security of the Pledged Shares which is in addition to and not in substitution for any other security now or hereafter held by the Lender.

5.3 The Lender may grant extensions of time or other indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with the Pledgor and other parties, sureties, guarantors or securities as the Lender may see fit without prejudice to the liability of the Pledgor hereunder or the Lender's rights in respect of the Pledged Shares.

5.4 This Agreement shall be construed and enforced in accordance with the laws in effect in the Province of Ontario, Canada. The parties hereto submit to the jurisdiction of the courts in the Province of Ontario and agree to appear in such courts in respect of any matter which may be raised in relation to the interpretation or enforcement of the provisions of this Agreement and agree to be bound by the decision thereof.

5.5 Any demand or notice to be given by any party hereto to any other party shall be in writing and may be given by personal delivery, telex or telecopier or by prepaid registered mail addressed as follows:

- (a) to the Pledgor at:

1944 Fowler Drive
Mississauga, Ontario
L5K 0A1

- 5 -

(b) to the Lender at:


MCAP Financial Corporation
 200 King Street West, Suite 400
 Toronto, ON M5H 3T4

and if given by registered mail shall be deemed to have been received by the party to whom it was addressed on the date falling four (4) business days following the date upon which it is sent by registered mail with postage and cost of registration prepaid, and if personally delivered to an adult person or by telex or telecopier during normal business hours, when so delivered; provided that any of the above-named parties may change the address designated from time to time, by notice in writing to the other parties hereto. In the event of a disruption in postal service, all notices shall be delivered personally.


5.6 This Agreement shall be binding upon and enure to the benefit of and be enforceable by the parties hereto and their respective, executors, administrators, successors and assigns and shall be read with such changes of gender and number required by the context.

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

**VANDYK HOLDINGS
 INCORPORATED**

Per: 
 Name: Richard Ma
 Title: Authorized Signing Officer
 I have authority to bind the corporation.

MCAP FINANCIAL CORPORATION

Per: 
 Name: PHILIP FRANK
 NATIONAL DIRECTOR
 DEVELOPMENT FINANCE GROUP
 Title:

Per: *Bruno Iacovetta*
 Name: Bruno Iacovetta
 Title: Managing Director

I/We have authority to bind the corporation.

- 6 -

SCHEDULE "A"STOCK TRANSFER/POWER OF ATTORNEY

FOR VALUE RECEIVED, Vandyk Holdings Incorporated, as registered owner, hereby sell, assign and transfer unto **MCAP Financial Corporation** 100 common Shares in the capital of Vandyk - Backyard Kings Mill Limited standing in its name on the books of the Corporation represented by Certificate No. _____ herewith, and irrevocably constitute and appoint MCAP Financial Corporation as its attorney to transfer such stock on the books of the Corporation with full power of substitution in the premises.

EXECUTED this 7th day of July, 2020,

VANDYK HOLDINGS
INCORPORATED

Per: 

Name: Richard Ma

Title: Authorized Signing Officer

I have authority to bind the corporation.

- 7 -

SCHEDULE "B"

TO: The Board of Directors of Vandyk - Backyard Kings Mill Limited (the "Corporation")

RE: Resignation as Director

Please accept my resignation as Director and of all offices held in the Corporation by the undersigned, effective _____.



JOHN VANDYK

- 8 -

SCHEDULE "C"**Vandyk - Backyard Kings Mill Limited (the "Corporation")**RESOLUTIONS IN WRITING OF THE SHAREHOLDERS
OF THE CORPORATION PASSED EFFECTIVE AS OF THE
____ DAY OF _____, 20 ____WHEREAS John Vandyk has provided the Corporation with a notice of his resignation as
Director of the Corporation effective _____,AND WHEREAS _____ has agreed to act as a director of the Corporation until
the next annual meeting of the shareholders of the Corporation;

BE IT UNANIMOUSLY RESOLVED THAT:


1. The resignations of John Vandyk is hereby accepted effective _____,
2. Effective _____, _____ is hereby appointed a
Director of the Corporation to fill the vacancy created by the above mentioned
resignation.
3. Any director or officer of the Corporation is authorized to take any other action or
execute any other document which he considers necessary or advisable to give effect
to this resolution.

WAIVER

Being the legal and beneficial Shareholder of the Corporation, we hereby:

- 1.1 consent to, conform and adopt the above resolution;
- 1.2 waive notice of any meeting that may or should have been called to consider
the above resolution; and
- 1.3 waive any informality or irregularity in the above resolutions or the manner of
proceeding.

**VANDYK HOLDINGS
INCORPORATED**

Per: 
Name: Richard Ma
Title: Authorized Signing Officer
I have authority to bind the corporation.

- 9 -

SCHEDULE "D"
AUTHORITY TO COMPLETE

TO: MCAP Financial Corporation
AND TO: GARFINKLE BIDERMAN LLP


Enclosed is the following:

1. Signed Shareholders' Resolution re: Director of Vandyk - Backyard Kings Mill Limited;
2. Resignation of John Vandyk as director of Vandyk - Backyard Kings Mill Limited.

You are hereby irrevocably authorized to complete the Resolution and Resignation described above and to deal with them at some future date as fully, to the same extent and with the same effect as the undersigned might or could, under any applicable laws or regulations governing the rights and powers of shareholders and directors of an Ontario corporation. It is understood that this authority is exercisable by MCAP Financial Corporation only from and after the occurrence and during the continuance of an Event of Default (as defined in a Share Pledge Agreement dated the day of , 2020).

DATED this day of , 2020.

**VANDYK HOLDINGS
INCORPORATED**


Per: _____
Name: Richard Ma
Title: Authorized Signing Officer
I have authority to bind the corporation.

- 10 -

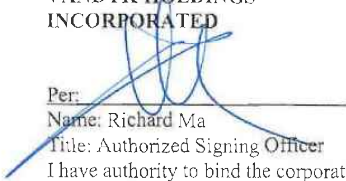
SCHEDULE "E"
IRREVOCABLE PROXY

The undersigned agrees to and hereby grants to MCAP Financial Corporation an irrevocable proxy to vote, execute and deliver written consents or otherwise act with respect to, all shares in the capital (the "Shares") of Vandyk - Backyard Kings Mill Limited now owned or hereafter acquired by the undersigned as fully, to the same extent and with the same effect as the undersigned might or could do under any applicable laws or regulations governing the rights and powers of shareholders of an Ontario corporation. The undersigned hereby affirms that this proxy is given pursuant to a Share Pledge Agreement dated the day of , 2020 made by it in favour of MCAP Financial Corporation (as amended, supplemented, restated, replaced or otherwise modified from time to time, the "Agreement") and as such is coupled with an interest and is irrevocable. It is further understood by the undersigned that this proxy is exercisable by MCAP Financial Corporation only from and after the occurrence of and during the continuance of an Event of Default (as defined in the Agreement) and ending only on the termination of the Agreement as provided therein.

THIS PROXY SHALL REMAIN IN FULL FORCE AND EFFECT AND BE ENFORCEABLE AGAINST ANY DONEE, TRANSFEREE OR ASSIGNEE OF THE SHARES, AS PROVIDED HEREIN.

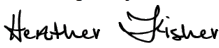
Dated as of this day of , 2020.

**VANDYK HOLDINGS
INCORPORATED**

Per: 
Name: Richard Ma
Title: Authorized Signing Officer
I have authority to bind the corporation.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "M" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

GUARANTEE AND POSTPONEMENT OF CLAIM**TO: MCAP FINANCIAL CORPORATION**

WHEREAS MCAP FINANCIAL CORPORATION (hereinafter called the "Lender") has advanced funds or is about to advance funds to **VANDYK - BACKYARD KINGS MILL LIMITED** (hereinafter called the "Borrower") and in consideration of your intention to advance the said funds to the Borrower, and other good and valuable consideration and the sum of Two Dollars (\$2.00), the receipt and sufficiency of which are hereby acknowledged, the undersigned (hereinafter called the "Guarantor") hereby, declares, covenants and agrees as follows:

1. In this Guarantee and Postponement of Claim the following words shall have the meaning as indicated opposite such word:

- (a) "Credit" - means financial accommodation of any kind whatsoever.
- (b) "Indebtedness" - means in its broadest sense all obligations of the Borrower to the Lender, alone or with others heretofore or hereafter incurred, whether voluntarily or involuntarily, whether due or not due, whether absolute, inchoate, contingent, liquidated or unliquidated together with interest on each and every such obligation. Notwithstanding the foregoing, this Guarantee shall relate only to a loan made by the Lender to the Borrower pursuant to a Letter of Commitment dated April 28, 2020 and any amendments thereto, if applicable (the "Letter of Commitment").

2. Without further authorization from or notice to the Guarantor, you may grant Credit and advance funds to the Borrower from time to time, either before or after revocation hereof, and in such manner, upon such terms and for such times as you deem best, and with or without notice to the Guarantor you may alter, compromise, accelerate, extend or change the time or manner for the payment by the Borrower or by any person or persons liable to you of any Indebtedness hereby guaranteed, increase or reduce the rate of interest thereon, release or add one or more guarantors or endorsers, accept additional or substituted security, or release or subordinate any security. No exercise or non-exercise by you of any right hereby given you, no failure by you to record, complete or otherwise perfect any securities given you by the Borrower or the Guarantor or any person, firm or corporation, no dealing by you with the Borrower or any guarantor or endorser and no change, impairment or suspension of any right or remedy you may have against any person or persons shall in any way affect any of the Guarantor's obligations hereunder or any security furnished by the Guarantor or give the Guarantor any recourse against you.

3. The Guarantor's liability under this Guarantee shall not exceed at any time the sum of \$43,000,000.00 plus interest thereon, and all costs, charges and expenses which may be incurred by you in respect of any Indebtedness of the Borrower hereby guaranteed or in enforcing this Guarantee against the Guarantor.

4. This shall be a continuing guarantee and shall cover and secure any ultimate balance owing to you, but you shall not be obliged to take any action or exhaust your recourse against the Borrower, any other Guarantor, any other person, firm or corporation, or any securities you may hold at any time nor to value such securities before requiring or being entitled to payment from the Guarantor of all Indebtedness hereby guaranteed. Provided always, this Guarantee shall not be determined or affected or your rights thereunder prejudiced by the discontinuance of this Guarantee as to one or more other Guarantors or by the death or loss or diminution of capacity or cessation of corporate existence, as the case may be, of the Borrower, or by the death or loss or diminution of capacity or cessation of corporate existence, as the case may be, of any other Guarantor.

5. Upon this Guarantee bearing the signature of the Guarantor coming into your hands or the hands of any officer, agent or employee thereof the same shall be deemed to be finally executed and delivered by the Guarantor and shall not be subject to or affected by any promise or condition affecting or limiting the Guarantor's liability except as set forth herein, and no statement, representation, agreement or promise on the part of any officer, employee or agent of

Page 2

the Lender, unless contained herein, forms any part of this contract or has induced the making thereof or shall be deemed in any way to affect the Guarantor's liability hereunder.

6. No alteration or waiver of this Guarantee or any of its terms, provisions or conditions shall be binding on you unless made in writing over the signature of your duly authorized officers in that regard.

7. Until all Indebtedness hereby guaranteed has been paid in full the Guarantor shall not have any right of subrogation unless expressly given the Guarantor in writing by one of your duly authorized officers in that regard.

8. You shall be at liberty (without in any way prejudicing or affecting your rights hereunder) to appropriate any payment made or moneys received to any portion of the Indebtedness hereby guaranteed whether then due or to become due, and from time to time to revoke or alter any such appropriation, all as you shall from time to time in your uncontrolled discretion see fit.

9. No change in the name, objects, share capital, business, membership, directorate powers, organization or management of the Borrower shall in any way affect the obligations of the Guarantor, either with respect to transactions occurring before or after any such change, it being understood that where the Borrower is a partnership or corporation this Guarantee is to extend to the person or persons or corporation for the time being and from time to time carrying on the business now carried on by the Borrower notwithstanding any change or changes in the name or membership of the Borrower's firm or in the name of the Corporate Borrower, and notwithstanding any reorganization of the Corporate Borrower, or its amalgamation with another or others or the sale or disposal of its business in whole or in part to another or others.

10. Where the Borrower is a corporation or partnership or an entity, you shall not be concerned to see or inquire into the powers of the Borrower or its directors, partners or agents acting or purporting to act on its behalf, and Credit in fact obtained from you in the professed exercise of such powers shall be deemed to form part of the Indebtedness hereby guaranteed even though the borrowing or obtaining of such Credit was irregularly, fraudulently, defectively or informally effected, or in excess of the powers of the Borrower or of the directors, partners or agents thereof. The Guarantor warrants and represents that it is fully authorized by law to execute this Guarantee.

11. The statement in writing of any of your authorized officers from time to time of the Indebtedness of the Borrower to you and covered by this Guarantee shall be received as prima facie evidence as against the Guarantor that such amount is at such time so due and payable to you and is covered hereby.

12. All indebtedness, present and future, of the Borrower to the Guarantor is hereby assigned to you and postponed to the present and future Indebtedness of the Borrower to you and all moneys received from the Borrower or for his account by the Guarantor shall be received in trust for you, and forthwith upon receipt, paid over to you until the Borrower's Indebtedness to you is fully paid and satisfied, all without prejudice to you and without in any way limiting or lessening the liability of the undersigned to you under this Guarantee. If the Borrower is a partnership of which the Guarantor is a member, the Guarantor will not without the prior written consent of one of your duly authorized officers withdraw any capital of the Guarantor invested with the Borrower.

13. Upon the bankruptcy or winding up or other distribution of assets of the Borrower or any surety or guarantor for any Indebtedness of the Borrower to you, your rights shall not be affected or impaired by your omission to prove your claim or to prove your full claim and you may prove such claim as you see fit and may refrain from proving any claim, and in your discretion you may value as you see fit or refrain from valuing any security or securities held by you without in any way releasing, reducing or otherwise affecting the Guarantor's liability to you and until all Indebtedness of the Borrower to you has been fully paid to you, you shall have the right to include in your claim the amount of all sums paid by the Guarantor to you under this Guarantee

Page 3

and to prove and rank for such sums paid by the Guarantor and to receive the full amount of all dividends in respect thereto being hereby assigned and transferred to you. The Guarantor shall not be released from liability if recovery from the Borrower, any other Guarantor or any other person becomes barred by any Statute of Limitations or is otherwise prevented.

14. The Guarantor will file all claims against the Borrower in any bankruptcy or other proceeding in which the filing of claims is required by law upon any Indebtedness of the Borrower to the Guarantor and will assign to you all of the Guarantor's rights thereunder. If the Guarantor does not file any such claim, you, as attorney in fact of the Guarantor, are hereby authorized to do so in the name of the Guarantor or in your discretion to assign the claim to and cause proof of claim to be filed in the name of your nominee. In all such cases, whether in administration, bankruptcy, or otherwise, the person or persons authorized to pay such claim shall pay to you the full amount payable on the claim in the proceeding before making any payment to the Guarantor, and to the full extent necessary for that purpose the Guarantor hereby assigns to you all the Guarantor's right to any payments or distributions to which the Guarantor otherwise would be entitled. If the amount so paid is greater than the guaranteed obligations then outstanding, you will pay the amount of the excess to the party entitled thereto.

15. All your rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between you and the Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to you by law and, without restricting the generality of the foregoing, if you hold one or more guarantees executed by the Guarantor relating to Credit extended to the Borrower by you, the amount of the Guarantor's liability imposed by such other guarantee or guarantees shall be added to the amount of the Guarantor's liability imposed by the provisions hereof and the resulting total shall be the amount of the Guarantor's liability.

16. The Guarantor shall pay to you on demand (in addition to all debts and liabilities of the Borrower hereby guaranteed) all costs, charges and expenses (including without limitation, lawyer's fees as between Solicitor and client) incurred by you for the preparation, execution and perfection and enforcement of this Guarantee and of any securities collateral thereto, together with interest calculated from the date of payment by you of each such costs, charges and expenses until payment by the Guarantor hereunder.

17. In case of default you may maintain an action upon this Guarantee whether or not the Borrower is joined therein or separate action is brought against the Borrower or judgement obtained against him. Your rights are cumulative and shall not be exhausted by the exercise of any of your rights hereunder or otherwise against the Guarantor or by any number of successive actions until and unless all Indebtedness hereby guaranteed has been paid and each of the Guarantor's obligations hereunder has been fully performed.

18. If any provision of this Guarantee is determined in any proceeding by a Court of Jurisdiction to be invalid or to be wholly or partially unenforceable, that provision shall, for the purposes of such a proceeding, be severed from this Guarantee at the Lender's option and shall be treated as not forming a part hereof and all the remaining provisions of this Guarantee shall remain in full force and shall be unaffected thereby.

19. Any notice or demand which you may wish to give may be served on the Guarantor either personally or on his legal personal representative or in the case of a corporation on an officer of the corporation, or by sending the same by registered mail in an envelope addressed to the last known place of address of the person to be served as it appears on your records, and the notice so sent shall be deemed to be served on the second business day following that on which it is mailed.

20. This Guarantee shall be construed in accordance with the laws of the Province of Ontario and in any action thereon the Guarantor shall be estopped from denying the same; any judgement recovered in the Courts of such Province against any Guarantor or his executors, administrators, legal personal representatives, successors and/or assigns shall be binding on him and them.


21. Any word herein contained importing the singular number shall include the plural and any word importing the masculine gender shall include the feminine gender and any word importing a person shall include a corporation, partnership, firm and any entity.

22. In the event of your making a demand upon the undersigned or any or all of the undersigned upon this Guarantee each of the undersigned shall be held and bound to you directly as principal debtor in respect of the payment of the amounts hereby guaranteed and if there be more than one undersigned then liability hereunder shall be joint and several.


23. This Guarantee and agreement on the part of the Guarantor shall extend to and enure to your benefit and the benefit of your successors and assigns and shall be binding on the Guarantor and his executors, administrators, legal personal representatives, successors and assigns.

IN WITNESS WHEREOF the Guarantor has hereto set his hand and seal, this _____ day of January, 2023, 1/10/2023

WITNESS:

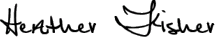

Name: (print) Natalie Chan
as to the signature of John Vandyk

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DocuSigned by:

John Vandyk

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "N" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:


2F7B29C04CC8424

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

GUARANTEE AND POSTPONEMENT OF CLAIM**TO: MCAP FINANCIAL CORPORATION**

WHEREAS MCAP FINANCIAL CORPORATION (hereinafter called the "Lender") has advanced funds or is about to advance funds to **VANDYK - BACKYARD KINGS MILL LIMITED** (hereinafter called the "Borrower") and in consideration of your intention to advance the said funds to the Borrower, and other good and valuable consideration and the sum of Two Dollars (\$2.00), the receipt and sufficiency of which are hereby acknowledged, the undersigned (hereinafter called the "Guarantor") hereby, declares, covenants and agrees as follows:

1. In this Guarantee and Postponement of Claim the following words shall have the meaning as indicated opposite such word:

- (a) "Credit" - means financial accommodation of any kind whatsoever.
- (b) "Indebtedness" - means in its broadest sense all obligations of the Borrower to the Lender, alone or with others heretofore or hereafter incurred, whether voluntarily or involuntarily, whether due or not due, whether absolute, inchoate, contingent, liquidated or unliquidated together with interest on each and every such obligation. Notwithstanding the foregoing, this Guarantee shall relate only to a loan made by the Lender to the Borrower pursuant to a Letter of Commitment dated April 28, 2020 and any amendments thereto, if applicable (the "Letter of Commitment").

2. Without further authorization from or notice to the Guarantor, you may grant Credit and advance funds to the Borrower from time to time, either before or after revocation hereof, and in such manner, upon such terms and for such times as you deem best, and with or without notice to the Guarantor you may alter, compromise, accelerate, extend or change the time or manner for the payment by the Borrower or by any person or persons liable to you of any Indebtedness hereby guaranteed, increase or reduce the rate of interest thereon, release or add one or more guarantors or endorsers, accept additional or substituted security, or release or subordinate any security. No exercise or non-exercise by you of any right hereby given you, no failure by you to record, complete or otherwise perfect any securities given you by the Borrower or the Guarantor or any person, firm or corporation, no dealing by you with the Borrower or any guarantor or endorser and no change, impairment or suspension of any right or remedy you may have against any person or persons shall in any way affect any of the Guarantor's obligations hereunder or any security furnished by the Guarantor or give the Guarantor any recourse against you.

3. The Guarantor, guarantees unconditionally and promises to pay to you or your order each item of Indebtedness hereby guaranteed, interest thereon, and all costs, charges and expenses which may be incurred by you in respect of any Indebtedness of the Borrower hereby guaranteed or in enforcing this Guarantee against the Guarantor and, promises to perform each guaranteed obligation when due.

4. This shall be a continuing guarantee and shall cover and secure any ultimate balance owing to you, but you shall not be obliged to take any action or exhaust your recourse against the Borrower, any other Guarantor, any other person, firm or corporation, or any securities you may hold at any time nor to value such securities before requiring or being entitled to payment from the Guarantor of all Indebtedness hereby guaranteed. Provided always, this Guarantee shall not be determined or affected or your rights thereunder prejudiced by the discontinuance of this Guarantee as to one or more other Guarantors or by the death or loss or diminution of capacity or cessation of corporate existence, as the case may be, of the Borrower, or by the death or loss or diminution of capacity or cessation of corporate existence, as the case may be, of any other Guarantor.

5. Upon this Guarantee bearing the signature of the Guarantor coming into your hands or the hands of any officer, agent or employee thereof the same shall be deemed to be finally executed and delivered by the Guarantor and shall not be subject to or affected by any promise or condition affecting or limiting the Guarantor's liability except as set forth herein, and no

Page 2

statement, representation, agreement or promise on the part of any officer, employee or agent of the Lender, unless contained herein, forms any part of this contract or has induced the making thereof or shall be deemed in any way to affect the Guarantor's liability hereunder.

6. No alteration or waiver of this Guarantee or any of its terms, provisions or conditions shall be binding on you unless made in writing over the signature of your duly authorized officers in that regard.

7. Until all Indebtedness hereby guaranteed has been paid in full the Guarantor shall not have any right of subrogation unless expressly given the Guarantor in writing by one of your duly authorized officers in that regard.

8. You shall be at liberty (without in any way prejudicing or affecting your rights hereunder) to appropriate any payment made or moneys received to any portion of the Indebtedness hereby guaranteed whether then due or to become due, and from time to time to revoke or alter any such appropriation, all as you shall from time to time in your uncontrolled discretion see fit.

9. No change in the name, objects, share capital, business, membership, directorate powers, organization or management of the Borrower shall in any way affect the obligations of the Guarantor, either with respect to transactions occurring before or after any such change, it being understood that where the Borrower is a partnership or corporation this Guarantee is to extend to the person or persons or corporation for the time being and from time to time carrying on the business now carried on by the Borrower notwithstanding any change or changes in the name or membership of the Borrower's firm or in the name of the Corporate Borrower, and notwithstanding any reorganization of the Corporate Borrower, or its amalgamation with another or others or the sale or disposal of its business in whole or in part to another or others.

10. Where the Borrower is a corporation or partnership or an entity, you shall not be concerned to see or inquire into the powers of the Borrower or its directors, partners or agents acting or purporting to act on its behalf, and Credit in fact obtained from you in the professed exercise of such powers shall be deemed to form part of the Indebtedness hereby guaranteed even though the borrowing or obtaining of such Credit was irregularly, fraudulently, defectively or informally effected, or in excess of the powers of the Borrower or of the directors, partners or agents thereof. The Guarantor warrants and represents that it is fully authorized by law to execute this Guarantee.

11. The statement in writing of any of your authorized officers from time to time of the Indebtedness of the Borrower to you and covered by this Guarantee shall be received as prima facie evidence as against the Guarantor that such amount is at such time so due and payable to you and is covered hereby.

12. All indebtedness, present and future, of the Borrower to the Guarantor is hereby assigned to you and postponed to the present and future Indebtedness of the Borrower to you and all moneys received from the Borrower or for his account by the Guarantor shall be received in trust for you, and forthwith upon receipt, paid over to you until the Borrower's Indebtedness to you is fully paid and satisfied, all without prejudice to you and without in any way limiting or lessening the liability of the undersigned to you under this Guarantee. If the Borrower is a partnership of which the Guarantor is a member, the Guarantor will not without the prior written consent of one of your duly authorized officers withdraw any capital of the Guarantor invested with the Borrower.

13. Upon the bankruptcy or winding up or other distribution of assets of the Borrower or any surety or guarantor for any Indebtedness of the Borrower to you, your rights shall not be affected or impaired by your omission to prove your claim or to prove your full claim and you may prove such claim as you see fit and may refrain from proving any claim, and in your discretion you may value as you see fit or refrain from valuing any security or securities held by you without in any way releasing, reducing or otherwise affecting the Guarantor's liability to you and until all Indebtedness of the Borrower to you has been fully paid to you, you shall have the right to

Page 3

include in your claim the amount of all sums paid by the Guarantor to you under this Guarantee and to prove and rank for such sums paid by the Guarantor and to receive the full amount of all dividends in respect thereto being hereby assigned and transferred to you. The Guarantor shall not be released from liability if recovery from the Borrower, any other Guarantor or any other person becomes barred by any Statute of Limitations or is otherwise prevented.

14. The Guarantor will file all claims against the Borrower in any bankruptcy or other proceeding in which the filing of claims is required by law upon any indebtedness of the Borrower to the Guarantor and will assign to you all of the Guarantor's rights thereunder. If the Guarantor does not file any such claim, you, as attorney in fact of the Guarantor, are hereby authorized to do so in the name of the Guarantor or in your discretion to assign the claim to and cause proof of claim to be filed in the name of your nominee. In all such cases, whether in administration, bankruptcy, or otherwise, the person or persons authorized to pay such claim shall pay to you the full amount payable on the claim in the proceeding before making any payment to the Guarantor, and to the full extent necessary for that purpose the Guarantor hereby assigns to you all the Guarantor's right to any payments or distributions to which the Guarantor otherwise would be entitled. If the amount so paid is greater than the guaranteed obligations then outstanding, you will pay the amount of the excess to the party entitled thereto.

15. All your rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between you and the Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to you by law and, without restricting the generality of the foregoing, if you hold one or more guarantees executed by the Guarantor relating to Credit extended to the Borrower by you, the amount of the Guarantor's liability imposed by such other guarantee or guarantees shall be added to the amount of the Guarantor's liability imposed by the provisions hereof and the resulting total shall be the amount of the Guarantor's liability.

16. The Guarantor shall pay to you on demand (in addition to all debts and liabilities of the Borrower hereby guaranteed) all costs, charges and expenses (including without limitation, lawyer's fees as between Solicitor and client) incurred by you for the preparation, execution and perfection and enforcement of this Guarantee and of any securities collateral thereto, together with interest calculated from the date of payment by you of each such costs, charges and expenses until payment by the Guarantor hereunder.

17. In case of default you may maintain an action upon this Guarantee whether or not the Borrower is joined therein or separate action is brought against the Borrower or judgement obtained against him. Your rights are cumulative and shall not be exhausted by the exercise of any of your rights hereunder or otherwise against the Guarantor or by any number of successive actions until and unless all Indebtedness hereby guaranteed has been paid and each of the Guarantor's obligations hereunder has been fully performed.

18. If any provision of this Guarantee is determined in any proceeding by a Court of Jurisdiction to be invalid or to be wholly or partially unenforceable, that provision shall, for the purposes of such a proceeding, be severed from this Guarantee at the Lender's option and shall be treated as not forming a part hereof and all the remaining provisions of this Guarantee shall remain in full force and shall be unaffected thereby.

19. Any notice or demand which you may wish to give may be served on the Guarantor either personally or on his legal personal representative or in the case of a corporation on an officer of the corporation, or by sending the same by registered mail in an envelope addressed to the last known place of address of the person to be served as it appears on your records, and the notice so sent shall be deemed to be served on the second business day following that on which it is mailed.

20. This Guarantee shall be construed in accordance with the laws of the Province of Ontario and in any action thereon the Guarantor shall be estopped from denying the same; any judgement recovered in the Courts of such Province against any Guarantor or his executors, administrators, legal personal representatives, successors and/or assigns shall be binding on him and them.

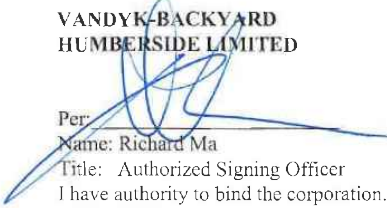
21. Any word herein contained importing the singular number shall include the plural and any word importing the masculine gender shall include the feminine gender and any word importing a person shall include a corporation, partnership, firm and any entity.

22. In the event of your making a demand upon the undersigned or any or all of the undersigned upon this Guarantee each of the undersigned shall be held and bound to you directly as principal debtor in respect of the payment of the amounts hereby guaranteed and if there be more than one undersigned then liability hereunder shall be joint and several.

23. This Guarantee and agreement on the part of the Guarantor shall extend to and enure to your benefit and the benefit of your successors and assigns and shall be binding on the Guarantor and his executors, administrators, legal personal representatives, successors and assigns.

IN WITNESS WHEREOF the Guarantor has hereto set his hand and seal, this 7th day of July, 2020.

**VANDYK-BACKYARD
HUMBERSIDE LIMITED**

Per: 
Name: Richard Ma
Title: Authorized Signing Officer
I have authority to bind the corporation.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

This is Exhibit "O" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2E7B29C04CC6A24

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

GUARANTEE AND POSTPONEMENT OF CLAIM

TO: MCAP Financial Corporation

WHEREAS MCAP FINANCIAL CORPORATION (hereinafter called the "Lender") has advanced funds or is about to advance funds to **Vandyk - Backyard Kings Mill Limited** (hereinafter called the "Borrower") and in consideration of your intention to advance the said funds to the Borrower, and other good and valuable consideration and the sum of Two Dollars (\$2.00), the receipt and sufficiency of which are hereby acknowledged, the undersigned (hereinafter collectively called the "Guarantor") hereby, jointly and severally, declares, covenants and agrees as follows:

1. In this Guarantee and Postponement of Claim the following words shall have the meaning as indicated opposite such word:
 - (a) "Credit" - means financial accommodation of any kind whatsoever,
 - (b) "Indebtedness" - means all obligations of the Borrower to the Lender, alone or with others heretofore or hereafter incurred, whether voluntarily or involuntarily, whether due or not due, whether absolute, inchoate, contingent, liquidated or unliquidated together with interest on each and every such obligation. Notwithstanding the foregoing, this Guarantee shall relate only to a loan made by the Lender to the Borrower pursuant to a Letter of Commitment dated April 28, 2020 and any amendments thereto, if applicable (the "Letter of Commitment").
2. Without further authorization from or notice to the Guarantor, you may grant Credit and advance funds to the Borrower from time to time, either before or after revocation hereof, and in such manner, upon such terms and for such times as you deem best, and with or without notice to the Guarantor you may alter, compromise, accelerate, extend or change the time or manner for the payment by the Borrower or by any person or persons liable to you of any Indebtedness hereby guaranteed, increase or reduce the rate of interest thereon, release or add one or more guarantors or endorsers, accept additional or substituted security, or release or subordinate any security. No exercise or non-exercise by you of any right hereby given you, no failure by you to record, complete or otherwise perfect any securities given you by the Borrower or the Guarantor or any person, firm or corporation, no dealing by you with the Borrower or any guarantor or endorser and no change, impairment or suspension of any right or remedy you may have against any person or persons shall in any way affect any of the Guarantor's obligations hereunder or any security furnished by the Guarantor or give the Guarantor any recourse against you.
3. The Guarantor, guarantees unconditionally and promises to pay to you or your order each item of Indebtedness hereby guaranteed, interest thereon, and all costs, charges and expenses which may be incurred by you in respect of any Indebtedness of the Borrower hereby guaranteed or in enforcing this Guarantee against the Guarantor and, promises to perform each guaranteed obligation when due.
4. Subject to Paragraph No. 24 hereof, this shall be a continuing guarantee and shall cover and secure any ultimate balance owing to you, but you shall not be obliged to take any action or exhaust your recourse against the Borrower, any other Guarantor, any other person, firm or corporation, or any securities you may hold at any time nor to value such securities before requiring or being entitled to payment from the Guarantor of all Indebtedness hereby guaranteed. Provided always, this Guarantee shall not be determined or affected or your rights thereunder prejudiced by the discontinuance of this Guarantee as to one or more other Guarantors or by the death or loss or diminution of capacity or cessation of corporate existence, as the case may be, of the Borrower, or by the death or loss or diminution of capacity or cessation of corporate existence, as the case may be, of any other Guarantor.
5. Upon this Guarantee bearing the signature of the Guarantor coming into your hands or the hands of any officer, agent or employee thereof the same shall be deemed to be finally executed and delivered by the Guarantor and shall not be subject to or affected by any promise or condition affecting or limiting the Guarantor's liability except as set forth herein, and no

Page 2

statement, representation, agreement or promise on the part of any officer, employee or agent of the Lender, unless contained herein, forms any part of this contract or has induced the making thereof or shall be deemed in any way to affect the Guarantor's liability hereunder.

6. No alteration or waiver of this Guarantee or any of its terms, provisions or conditions shall be binding on you unless made in writing over the signature of your duly authorized officers in that regard.

7. Until all Indebtedness hereby guaranteed has been paid in full the Guarantor shall not have any right of subrogation unless expressly given the Guarantor in writing by one of your duly authorized officers in that regard.

8. You shall be at liberty (without in any way prejudicing or affecting your rights hereunder) to appropriate any payment made or moneys received to any portion of the Indebtedness hereby guaranteed whether then due or to become due, and from time to time to revoke or alter any such appropriation, all as you shall from time to time in your uncontrolled discretion see fit.

9. No change in the name, objects, share capital, business, membership, directorate powers, organization or management of the Borrower shall in any way affect the obligations of the Guarantor, either with respect to transactions occurring before or after any such change, it being understood that where the Borrower is a partnership or corporation this Guarantee is to extend to the person or persons or corporation for the time being and from time to time carrying on the business now carried on by the Borrower notwithstanding any change or changes in the name or membership of the Borrower's firm or in the name of the Corporate Borrower, and notwithstanding any reorganization of the Corporate Borrower, or its amalgamation with another or others or the sale or disposal of its business in whole or in part to another or others.

10. Where the Borrower is a corporation or partnership or an entity, you shall not be concerned to see or inquire into the powers of the Borrower or its directors, partners or agents acting or purporting to act on its behalf, and Credit in fact obtained from you in the professed exercise of such powers shall be deemed to form part of the indebtedness hereby guaranteed even though the borrowing or obtaining of such Credit was irregularly, fraudulently, defectively or informally effected, or in excess of the powers of the Borrower or of the directors, partners or agents thereof. The Guarantor warrants and represents that it is fully authorized by law to execute this Guarantee of Credit to be granted to the Borrower.

11. The statement in writing of any of your authorized officers from time to time of the **Indebtedness of the Borrower to you** and covered by this Guarantee shall be received as **prima facie evidence as against the Guarantor** that such amount is at such time so due and payable to you and is covered hereby.

12. All indebtedness, present and future, of the Borrower to the Guarantor is hereby assigned to you and postponed to the present and future Indebtedness of the Borrower to you and all moneys received from the Borrower or for his account by the Guarantor shall be received in trust for you, and forthwith upon receipt, paid over to you until the Borrower's Indebtedness to you is fully paid and satisfied, all without prejudice to you and without in any way limiting or lessening the liability of the undersigned to you under this Guarantee. If the Borrower is a partnership of which the Guarantor is a member, the Guarantor will not without the prior written consent of one of your duly authorized officers withdraw any capital of the Guarantor invested with the Borrower.

13. Upon the bankruptcy or winding up or other distribution of assets of the Borrower or any surety or guarantor for any Indebtedness of the Borrower to you, your rights shall not be affected or impaired by your omission to prove your claim or to prove your full claim and you may prove such claim as you see fit and may refrain from proving any claim, and in your discretion you may value as you see fit or refrain from valuing any security or securities held by you without in any way releasing, reducing or otherwise affecting the Guarantor's liability to you and until all Indebtedness of the Borrower to you has been fully paid to you, you shall have the right to

Page 3

include in your claim the amount of all sums paid by the Guarantor to you under this Guarantee and to prove and rank for such sums paid by the Guarantor and to receive the full amount of all dividends in respect thereto being hereby assigned and transferred to you. The Guarantor shall not be released from liability if recovery from the Borrower, any other Guarantor or any other person becomes barred by any Statute of Limitations or is otherwise prevented.

14. The Guarantor will file all claims against the Borrower in any bankruptcy or other proceeding in which the filing of claims is required by law upon any indebtedness of the Borrower to the Guarantor and will assign to you all of the Guarantor's rights thereunder. If the Guarantor does not file any such claim, you, as attorney in fact of the Guarantor, are hereby authorized to do so in the name of the Guarantor or in your discretion to assign the claim to and cause proof of claim to be filed in the name of your nominee. In all such cases, whether in administration, bankruptcy, or otherwise, the person or persons authorized to pay such claim shall pay to you the full amount payable on the claim in the proceeding before making any payment to the Guarantor, and to the full extent necessary for that purpose the Guarantor hereby assigns to you all the Guarantor's right to any payments or distributions to which the Guarantor otherwise would be entitled. If the amount so paid is greater than the guaranteed obligations then outstanding, you will pay the amount of the excess to the party entitled thereto.

15. All your rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between you and the Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to you by law and, without restricting the generality of the foregoing, if you hold one or more guarantees executed by the Guarantor relating to Credit extended to the Borrower by you, the amount of the Guarantor's liability imposed by such other guarantee or guarantees shall be added to the amount of the Guarantor's liability imposed by the provisions hereof and the resulting total shall be the amount of the Guarantor's liability.

16. The Guarantor shall pay to you on demand (in addition to all debts and liabilities of the Borrower hereby guaranteed) all costs, charges and expenses (including without limitation, lawyer's fees as between Solicitor and client) incurred by you for the preparation, execution and perfection and enforcement of this Guarantee and of any securities collateral thereto, together with interest calculated from the date of payment by you of each such costs, charges and expenses until payment by the Guarantor hereunder.

17. In case of default you may maintain an action upon this Guarantee whether or not the Borrower is joined therein or separate action is brought against the Borrower or judgement obtained against him. Your rights are cumulative and shall not be exhausted by the exercise of any of your rights hereunder or otherwise against the Guarantor or by any number of successive actions until and unless all indebtedness hereby guaranteed has been paid and each of the Guarantor's obligations hereunder has been fully performed.

18. If any provision of this Guarantee is determined in any proceeding by a Court of Jurisdiction to be invalid or to be wholly or partially unenforceable, that provision shall, for the purposes of such a proceeding, be severed from this Guarantee at the Lender's option and shall be treated as not forming a part hereof and all the remaining provisions of this Guarantee shall remain in full force and shall be unaffected thereby.

19. Any notice or demand which you may wish to give may be served on the Guarantor either personally or on his legal personal representative or in the case of a corporation on an officer of the corporation, or by sending the same by registered mail in an envelope addressed to the last known place of address of the person to be served as it appears on your records, and the notice so sent shall be deemed to be served on the second business day following that on which it is mailed.

20. This Guarantee shall be construed in accordance with the laws of the Province of Ontario and in any action thereon the Guarantor shall be estopped from denying the same; any judgement recovered in the Courts of such Province against any Guarantor or his executors, administrators, legal personal representatives, successors and/or assigns shall be binding on him and them.

Page 4

21. Any word herein contained importing the singular number shall include the plural and any word importing the masculine gender shall include the feminine gender and any word importing a person shall include a corporation, partnership, firm and any entity.

22. In the event of your making a demand upon the undersigned or any or all of the undersigned upon this Guarantee each of the undersigned shall be held and bound to you directly as principal debtor in respect of the payment of the amounts hereby guaranteed and if there be more than one undersigned then liability hereunder shall be joint and several.


23. This Guarantee and agreement on the part of the Guarantor shall extend to and enure to your benefit and the benefit of your successors and assigns and shall be binding on the Guarantor and his executors, administrators, legal personal representatives, successors and assigns.

24. Notwithstanding anything contained in this document, you, for the purpose of enforcing your rights against the undersigned with regard to its guarantee, shall have recourse only to the 100 common shares of the capital stock of the Borrower pledged by Vandyk Holdings Incorporated in favour of the Lender on the terms and conditions set out in a certain Share Pledge Agreement made as of the day of , 2020 and the obligations of the undersigned shall be performed, satisfied and paid only out of the said pledged shares. You shall have no resort or recourse to any other asset of the undersigned to satisfy the guarantee obligations of the undersigned hereunder and you shall have no right whatsoever to levy execution or other process against any other asset of the undersigned to satisfy the obligations of the undersigned hereunder.

Nothing contained in this Paragraph No. 24 however, shall in any way limit any assignment or postponement referred to in Paragraph No. 12 herein, for the entire duration of the Indebtedness.

IN WITNESS WHEREOF the Guarantor has hereto set his hand and seal, this 14 day of July, 2020.

**VANDYK HOLDINGS
INCORPORATED**

Per: 
Name: Richard Via
Title: Authorized Signing Officer
I have authority to bind the corporation.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "P" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

2F7B29C9A1CC942A
Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

INDEMNITY

TO: MCAP FINANCIAL CORPORATION

RE: LETTER(S) OF CREDIT/LETTER(S) OF GUARANTEE NO.


AND RE: MCAP FINANCIAL CORPORATION LOAN TO VANDYK - BACKYARD KINGS
MILL LIMITED
Letter of Commitment dated April 28, 2020
PROJECT: KINGS MILL CONDOS

WE HEREBY AUTHORIZE and request you to arrange and/or provide any Letters of Credit and/or Letters of Guarantee as set out in the Letter of Commitment with regard to the above transaction dated April 28, 2020, and any subsequent amendments thereto and in consideration of your so doing, we hereby undertake and agree to indemnify you to the extent of any payment made thereunder to or for the account of the undersigned. Furthermore, we agree to indemnify you and save you, your successors and assigns, harmless from and against any and all losses, costs, damages, or expenses which you may suffer or incur in any manner whatsoever by reason of your giving or having arranged for the giving of the said Letters of Credit and/or Letters of Guarantee.

It is understood and agreed that any demand or request made for payment under the said Letters of Credit and/or Letters of Guarantee by any party to whom same are issued will be sufficient authority for the issuer to pay hereunder and the issuer shall not be required to determine the validity or sufficiency of such demand or request.


DATED at Toronto, this 7th day of July, 2020.

**VANDYK - BACKYARD KINGS
MILL LIMITED**

Per: 
Name: Richard Ma
Title: Authorized Signing Officer
I have authority to bind the corporation.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "Q" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

LRO # 80 **Charge/Mortgage**Registered as **AT5380929** on 2020 03 04 at 15:08

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 2

Properties

PIN 07500 - 0082 LT *Interest/Estate* Fee Simple
Description PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN 66R28992; S/T EASEMENT IN FAVOUR OF PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865050; T/W EASEMENT OVER PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865049, AT4865050 & AT4865051; S/T INTEREST OF THE CITY OF TORONTO AS IN EB186721; TOGETHER WITH A RIGHT OF WAY OVER PTS 7,8,9 66R29993 AS IN AT4478658; CITY OF TORONTO
Address TORONTO

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name VANDYK - BACKYARD KINGS MILL LIMITED
Address for Service 1944 Fowler Drive
 Mississauga ON L5K 0A1

I, Richard Ma, A.S.O., have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Chargee(s)*Capacity**Share*

Name WESTMOUNT GUARANTEE SERVICES INC.
Address for Service As Administrative Agent for the Surety
 c/o 600 Cochrane Drive
 Suite 205
 Markham ON L3R 5K3

Provisions

Principal \$30,000,000.00 *Currency* CDN
Calculation Period
Balance Due Date On Demand
Interest Rate
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date
Standard Charge Terms 201707
Insurance Amount Full insurable value
Guarantor

Signed By

Christa-Lee Ann Callahan 1000-120 Adelaide St. W. acting for First 2020 03 04
 Toronto Chargor(s) Signed
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

Christa-Lee Ann Callahan 1000-120 Adelaide St. W. acting for Last 2020 03 11
 Toronto Chargor(s) Signed
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

Schneider Ruggiero Spencer Milburn LLP 1000-120 Adelaide St. W. 2020 03 11
 Toronto
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

LRO # 80 **Charge/Mortgage**

Registered as AT5380929 on 2020 03 04 at 15:08

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 2

Fees/Taxes/Payment

Statutory Registration Fee	\$65.05
Total Paid	\$65.05

File Number

Chargee Client File Number : 41358/BM

LRO # 80 **Postponement Of Interest**Received as **AT5581126** on 2020 11 26 at 09:09

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 1

Properties

PIN 07500 - 0082 LT

Description PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN 66R28992; S/T EASEMENT IN FAVOUR OF PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865050; T/W EASEMENT OVER PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865049 (PARTIALLY RELEASED BY AT5347793), AT4865050 & AT4865051; S/T INTEREST OF THE CITY OF TORONTO AS IN EB186721; TOGETHER WITH A RIGHT OF WAY OVER PTS 7,8,9 66R29993 AS IN AT4478658; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN AT5347804; SUBJECT TO AN EASEMENT IN GROSS OVER PART 7, 66R28992 AS IN AT5347808; SUBJECT TO AN EASEMENT IN GROSS OVER PART 6, 66R28992 AS IN AT5347812; SUBJECT TO AN EASEMENT AS IN AT5367415; CITY OF TORONTO

Address TORONTO

Source Instruments

Registration No.	Date	Type of Instrument
AT5380929	2020 03 04	Charge/Mortgage

Party From(s)

Name WESTMOUNT GUARANTEE SERVICES INC.

Address for Service 600 Cochrane Drive, Suite 205
Markham, ON L3R 5K3

I, Marlon Brown, Authorized Signing Officer, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Party To(s)**Capacity****Share**

Name	Capacity	Share
MCAP FINANCIAL CORPORATION		

Name MCAP FINANCIAL CORPORATION

Address for Service 200 King Street West, Suite 400
Toronto, ON M5H 3T4

Statements

The applicant postpones the rights under the selected instrument to the rights under an instrument registered as number AT5581120 registered on 2020/11/26

Schedule: The applicant also postpones the rights under the selected instrument to all future advances made under the instrument registered as No. AT5581120 and Assignment of Rents No. AT5581121

This document relates to registration number(s)AT5380929, AT5581120 and AT5581121

Signed By

Avrom Warren Brown	1 Adelaide Street E., Suite 801 Toronto M5C 2V9	acting for Party From(s)	Signed	2020 11 26
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Tel 416-869-1234

Fax 416-869-0547

I have the authority to sign and register the document on behalf of the Party From(s).

Submitted By

GARFINKLE, BIDERMAN LLP	1 Adelaide Street E., Suite 801 Toronto M5C 2V9	2020 11 26
-------------------------	---	------------

Tel 416-869-1234

Fax 416-869-0547

Fees/Taxes/Payment

Statutory Registration Fee	\$65.30
Total Paid	\$65.30

File Number

Party To Client File Number : 9150-084

LRO # 80 **Postponement Of Interest**Received as **AT5581126** on 2020 11 26 at 09:09

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 1

Properties

PIN 07500 - 0082 LT

Description PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PTS 5, 6, 7 & 8 PLAN 66R28992; S/T EASEMENT IN FAVOUR OF PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865050; T/W EASEMENT OVER PTS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865049 (PARTIALLY RELEASED BY AT5347793), AT4865050 & AT4865051; S/T INTEREST OF THE CITY OF TORONTO AS IN EB186721; TOGETHER WITH A RIGHT OF WAY OVER PTS 7,8,9 66R29993 AS IN AT4478658; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN AT5347804; SUBJECT TO AN EASEMENT IN GROSS OVER PART 7, 66R28992 AS IN AT5347808; SUBJECT TO AN EASEMENT IN GROSS OVER PART 6, 66R28992 AS IN AT5347812; SUBJECT TO AN EASEMENT AS IN AT5367415; CITY OF TORONTO

Address TORONTO

Source Instruments

Registration No.	Date	Type of Instrument
AT5380929	2020 03 04	Charge/Mortgage

Party From(s)

Name WESTMOUNT GUARANTEE SERVICES INC.

Address for Service 600 Cochrane Drive, Suite 205
Markham, ON L3R 5K3

I, Marlon Brown, Authorized Signing Officer, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Party To(s)**Capacity****Share**

Name	Capacity	Share
MCAP FINANCIAL CORPORATION		

Name MCAP FINANCIAL CORPORATION

Address for Service 200 King Street West, Suite 400
Toronto, ON M5H 3T4

Statements

The applicant postpones the rights under the selected instrument to the rights under an instrument registered as number AT5581120 registered on 2020/11/26

Schedule: The applicant also postpones the rights under the selected instrument to all future advances made under the instrument registered as No. AT5581120 and Assignment of Rents No. AT5581121

This document relates to registration number(s)AT5380929, AT5581120 and AT5581121

Signed By

Avrom Warren Brown	1 Adelaide Street E., Suite 801 Toronto M5C 2V9	acting for Party From(s)	Signed	2020 11 26
--------------------	---	-----------------------------	--------	------------

Tel 416-869-1234

Fax 416-869-0547

I have the authority to sign and register the document on behalf of the Party From(s).

Submitted By

GARFINKLE, BIDERMAN LLP	1 Adelaide Street E., Suite 801 Toronto M5C 2V9	2020 11 26
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Tel 416-869-1234

Fax 416-869-0547

Fees/Taxes/Payment

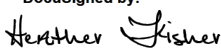
Statutory Registration Fee	\$65.30
Total Paid	\$65.30

File Number

Party To Client File Number : 9150-084

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCFO

This is Exhibit "R" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



Tel: 905-524-1008
 Fax: 905-510-0249
 www.bdo.ca

BDO Canada Limited
 25 Main Street West Suite 805
 Hamilton, ON L8P 1H1 Canada

September 15, 2023

MCAP Financial Corporation
 400 - 200 King Street West,
 Toronto, ON
 M5H 3T4

Attention: Stephen Jones
Attention: Michael Misener

Dear Sirs:

RE: MCAP FINANCIAL CORPORATION (“MCAP”)
LOAN TO VANDYK-BACKYARD KINGS MILL LIMITED (the “Borrower”)
Project: Kings Mill Condos (the “Project”)
Our Loan No.: 19-6493-T41/91 (the “Loan”)

We understand that you wish to engage BDO Canada Limited (“BDO”) to provide advisory services to you as described herein (the “Services”). It would be our pleasure to provide these Services to you.

The purpose of this letter is to confirm our mutual understanding of the Services that we will perform, set out the terms and conditions of our engagement and to serve as an agreement between us (the “Agreement”). The attached Standard Terms and Conditions form an integral part of this Agreement.

MCAP is acting as agent for the lender(s) associated with the Loan and BDO is being retained by MCAP on behalf of the lender(s) to act on your and their behalf in connection with the above noted Loan. BDO’s fees and expenses shall be borne by the above noted Borrower.

Our Services to You

BDO’s Services, working in conjunction with MCAP’s cost consultant, CB Ross Partners, (“CB Ross”) with respect to this engagement are outlined below in the list of Initial Requirements. Any change to the terms of reference will be in writing from MCAP.

Initial Requirements:

1. Work closely with CB Ross, to conduct a detailed review and report of the Project and the Borrower’s Budget (the “Project Budget”) to include the following:
 - a) Review and confirm adequacy of the current Project Budget.
 - b) Review and confirm adequacy of the current Costs to Date, and Costs to Complete.



- c) Provide accounting of all paid costs, which is to include collection of information evidencing the payments made to date.
- d) Provide accounting of all trade payables, which is to include:
 - i. an accounting of trade payables that were outstanding up to and including the date of the most recent CB Ross report (Report #20 as at May 31, 2023); and
 - ii. an accounting of trade payables that have been incurred since that report.
- e) Confirmation directly from the trades that all other amounts payable, excluding the payables noted in c) above, have been paid and that there are no deferrals, side agreements or any other arrangements that would allow for payments to be otherwise deferred.
- f) Review and confirm adequacy of Borrower's schedule (which schedule is to be acceptable to MCAP) and cash flow projections.
- g) Adequacy of contingency reserve for completion of project.
- h) Recommendations on such other matters as may have become evident during discussions with the Borrower, the cost consultant (and other consultants) involved in the project, or which may have become evident during the course of your review and inquiries.

Prior to any further Progress Advances for Work in Place

- 1. Any further advances by MCAP will be made directly to the trades by either MCAP, legal counsel, or BDO, with satisfactory evidence of receipt of funds and confirmation that no invoices remain unpaid and no deferrals are in place to be provided by each trade.

Any service not specifically described above is outside the scope of this Agreement.



Reporting

We understand that time is of the essence, and subject to the Borrower's co-operation in providing the necessary information, BDO and CB Ross will provide a report outlining their findings on the "Initial Requirements" within 4 weeks of the date from which all requested information is received by BDO, with weekly status updates as available to MCAP.

Management's Responsibilities

You are responsible for the accuracy and completeness of any of the facts, working assumptions or other information that you provide to us in the course of us performing our work. We will not independently verify such things.

Fees

Our professional fees will be based on our billing rates which depend on the means by which and by whom our Services are provided. Our billing rates may be subject to change from time to time at our discretion with or without notice to you.

The hourly rates to be charged by BDO shall be:

Title	Rate
Partner	\$545.00
Senior Manager	\$475.00
Manager	\$325.00
Associate	\$275.00

Our accounts are due when rendered and invoiced amounts are deemed to be earned when paid. BDO may suspend the performance of Services in the event that you fail to pay an invoice when it is due. Fees that are not paid within 30 days of an invoice or by a specified payment deadline will be considered delinquent. Interest may be charged at the rate of 12% per annum on all accounts outstanding for more than 30 days.

Standard Terms and Conditions

Our Standard Terms and Conditions are attached as Appendix 1. You should ensure that you read and understand them.

Acknowledgement and Agreement

Provided that this Agreement is satisfactory to you, please sign and return the attached copy of the Agreement to indicate your acceptance of it. If you have any questions concerning the Agreement, please contact us before signing it.



We are proud to serve you and we appreciate your confidence in our work.

Yours very truly,

BDO Canada Limited

The required work, facts and assumptions are appropriately stated above. This Agreement is accepted by:

MCAP Financial Corporation

Bruno Iacovetta
Signature

September 15, 2023
Date

Bruno Iacovetta
Name (please print)

Managing Director
Position

Please carefully review this Agreement, which includes the attached Standard Terms and Conditions, prior to signing it. A complete copy of the signed engagement letter should be returned to us.



Appendix 1 - Standard Terms and Conditions

1 Overview and Interpretation

1.1 This Agreement sets forth the entire agreement between the parties in relation to Services and it supersedes all prior agreements, negotiations or understandings, whether oral or written, with respect to Services, including without limitation any non-disclosure agreements entered into in advance of this Agreement. This Agreement applies to Services whenever performed (including before the date of this Agreement). To the extent that any of the provisions of the accompanying letter conflict with these Standard Terms and Conditions, these Standard Terms and Conditions shall prevail. This Agreement may not be changed, modified or waived in whole or part except by an instrument in writing signed by both parties.

1.2 In this Agreement, the following words and expressions have the meanings set out below:

This Agreement – these Standard Terms and Conditions, the letter to which they are attached, any supporting schedules or other appendices to the letter, and any Summary of Services letters issued in future years

Services – the services provided or to be provided under this Agreement, and any other services which we agree to provide to you subsequent to the date of this Agreement that are not covered by a separate engagement letter

We, us, our, BDO – refer to BDO Canada Limited, a corporation organized under the federal laws of Canada

You, your – the party or parties contracting with BDO under this Agreement. You and your does not include BDO, its affiliates or BDO Member Firms

BDO Member Firm or Firms – any firm or firms that form part of the international network of independent firms that are members of BDO International Limited

Confidential Information - all non-public proprietary or confidential information and Personal Information, including Client Documents

Personal Information – personal information that is or could be attributed to identifiable individuals

Client Documents – information (including internal financial information and internal records and reports) provided to us by you or on your behalf in connection with the performance of the Services

2 BDO Network and Sole Recourse

2.1 BDO is an affiliate of BDO Canada LLP, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international network of independent member firms (i.e. BDO Member Firms), each of which is a separate legal entity.

We may use other BDO Member Firms or subcontractors to provide Services; however, we remain solely responsible for Services. You agree not to bring any claim or action against another BDO Member Firm (or their partners, members, directors, employees or subcontractors) or our subcontractors in respect of any liability relating to the provision of Services.

2.2 You agree that any of our affiliates, subcontractors, and other BDO Member Firms and any subcontractors thereof whom we directly or indirectly involve in providing Services have the right to rely on and enforce Section 2.2 above, as well as all liability protections contained herein, as if they were a party to this Agreement. For greater certainty, you agree that other BDO Member Firms that are subcontractors may enforce any limitations or exclusions of liability available to us under this Agreement.

3 Respective Responsibilities

3.1 We will use reasonable efforts to complete, within any agreed-upon time frame, the performance of Services. You shall be responsible for your personnel's compliance with your obligations under this Agreement. We will not be responsible for any delays or other consequences arising from you not fulfilling your obligations.



4 Working Papers and Deliverables

4.1 **Ownership** – The working papers prepared pursuant to this Agreement (i.e. BDO’s internal documentation to substantiate the Services) are the property of BDO. Such working papers constitute confidential and proprietary information, and will be retained by BDO in accordance with our policies and procedures and all applicable laws.

Oral advice and draft deliverables – You should not rely upon any draft deliverables or oral advice provided by us. Should you wish to rely upon something we have said to you, please let us know and, if possible, we will provide the information that you require in writing.

4.2 **Reliance by Third Parties** – Our Services will not be planned or conducted in contemplation of or for the purpose of reliance by any party other than you, and are intended for the benefit of only you. Items of possible interest to a third party will not be addressed and matters may exist that would be assessed differently by a third party, possibly in connection with a specific transaction. The receipt by any third parties of any advice, opinions, reports or other work product is not intended to create any duty of care, professional relationship or any present or future liability between such third parties and us. For greater certainty, we expressly disclaim any liability of any nature or kind resulting from the disclosure to or unauthorized reliance by any third party on our advice, opinions, reports or other work product.

5 Confidentiality

5.1 We will use Confidential Information provided by you only in relation to the Services or for internal and administrative purposes. You agree, however, that we may use such Confidential Information for predictive analytics to provide you with key performance indicators and other analysis and insights. We will not disclose any Confidential Information, except where required by law, regulation or professional obligation. You agree, however, that we may disclose Confidential Information to other BDO Member Firms or other subcontractors assisting us in providing Services, provided that such parties are bound by reasonable confidentiality obligations no less stringent than in this Agreement.

6 Analytics

6.1 You agree that we may use anonymized and aggregated usage metrics, metadata or other tag identifiers, and Confidential Information that will not include any personally identifiable information, related to your use of BDO products and/or services to develop, modify and improve tools, services and offerings and for data analytics and other insight generation. Information developed in connection with these purposes may be used or disclosed to current or prospective clients as part of service offerings, however we will not use or disclose your name or any Confidential Information in a way that would permit you to be identified.

7 Privacy and Consent for Use of Personal Information

7.1 In order to provide our Services, we may be required to access and collect Personal Information of individuals that is in your custody. You agree that we may collect, use, store, transfer, disclose and otherwise process Personal Information as required for the purpose of providing the Services. Personal Information may be processed in various jurisdictions in which we or applicable BDO Member Firms and subcontractors providing Services operate and as such Personal Information may be subject to the laws of such jurisdictions. Personal Information will at all times be collected, used, stored, transferred, disclosed or processed in accordance with applicable laws and professional regulations and we will require any service providers and BDO Members that process Personal Information on our behalf to adhere to such requirements. Any collection, use, storage, transfer or disclosure of Personal Information is subject to BDO’s Privacy Statement available at <https://www.bdo.ca/en-ca/legal-privacy/legal/privacy-policy/>.

7.2 You represent and warrant that:

- and
- (a) you have the authority to provide the Personal Information to us in connection with the performance of our Services,
 - (b) the Personal Information provided to us has been provided in accordance with applicable law, and you have obtained all required consents of the individuals to whom such Personal Information relates in order to permit BDO to collect, use and disclose the Personal Information in the course of providing the Services.



8 Professional and Regulatory Oversight and Legal Processes

8.1 As required by legal, regulatory, or professional authorities (both in Canada and abroad) and by BDO policy, our client files must periodically be reviewed by practice inspectors to ensure that we are adhering to professional and BDO standards. It is understood that by entering into this Agreement, you provide your consent to us providing our files relating to your engagement to the practice inspectors for the sole purpose of their inspection.

Certain law enforcement, regulatory and other governmental bodies may also have the right under law or regulation to conduct investigations of you, including the Services provided by us. To the extent practicable and permitted by law or regulation, we will advise you of any such document request or production order we receive in connection with any such investigation prior to providing any documents in response to such request or order.

8.2 We are sometimes required by law, regulation, subpoena or other legal process, or upon your request, to produce documents or personnel as witnesses in connection with legal or regulatory proceedings. Where BDO is not a party to such proceedings, you shall reimburse us at our current standard billing rates for professional time and expenses, including without limitation, reasonable legal fees, expenses and taxes incurred in responding to such compelled assistance or request by you.

9 Electronic Communications

9.1 Both parties recognize and accept the security risks associated with email communications, including but not limited to the lack of security, unreliability of delivery and possible loss of confidentiality and privilege. Unless you request in writing that we do not communicate by internet email, you assume all responsibility and liability in respect of risk associated with its use.

10 Limitation of Liability

10.1 In any dispute, action, claim, demand for losses or damages arising out of the Services performed by BDO pursuant to this Agreement, BDO's liability will be several, and not joint and several, and BDO shall only be liable for its proportionate share of the total liability based on degree of fault as determined by a court of competent jurisdiction or by an independent arbitrator, notwithstanding the provisions of any statute or rule of common law which create, or purport to create, joint and several liability. In no event shall BDO be liable for indirect, consequential, special, incidental, aggravated, punitive damages, or exemplary damages, losses or expenses, or for any loss of revenues or profits, loss of opportunity, loss of data, or other commercial or economic loss or failure to realize expected savings, including without limitation expected tax savings, whether or not the likelihood of such loss or damage was contemplated.

10.2 Intentionally deleted

The limitations of liability in this section apply whether or not the Liabilities asserted by you against BDO are incurred by you directly or as a result of a claim or demand against you by a third party.

10.3 No exclusion or limitation on the liability of other responsible persons imposed or agreed at any time shall affect any assessment of our proportionate liability hereunder, nor shall settlement of or difficulty enforcing any claim, or the death, dissolution or insolvency of any such other responsible persons or their ceasing to be liable for the loss or damage or any portion thereof, affect any such assessment.

You agree claims or actions relating to the delivery of Services shall be brought against us alone, and not against any individual. Where our individuals are described as partners, they are acting as one of our members.

10.4 For purposes of this Section, the term "BDO" shall include BDO Canada Limited and its subsidiaries, associated and affiliated entities and their respective current and former partners, directors, officers, employees, agents and representatives. The provisions of this Section shall apply to the fullest extent of the law, regardless of the form of the claim, whether in contract, statute, tort (including without limitation, negligence) or otherwise.

11 Intentionally deleted

Alternative Dispute Resolution

11.1 Both parties agree that they will first attempt to settle any dispute arising out of or relating to this Agreement, including any question regarding its existence, interpretation, validity, breach or termination, or the Services provided hereunder, through good faith negotiations.

In the event that the parties are unable to settle or resolve their dispute through negotiation, such dispute shall be subject to mediation using a mediator chosen by mutual agreement of the parties.



- 11.2 All disputes remaining unsettled for more than 60 days following the parties first mediation session with a mediator or such longer period as the parties mutually agree upon shall be referred to and finally resolved by arbitration. The parties agree that one arbitrator shall be appointed within twenty (20) days of receipt of the request for arbitration. If the parties cannot agree on the appointment of an arbitrator in such period then either party may immediately apply for the appointment of an arbitrator to a court of competent jurisdiction in the Province of the governing law as contained herein pursuant to such Province's applicable Arbitration Act. The place of arbitration shall be in the capital of the Province of the governing law as contained herein. Unless the arbitrator otherwise determines, the fees of the arbitrator and the costs and expenses of the arbitration will be borne and paid equally by the parties. Such arbitration shall be final, conclusive and binding upon the parties, and the parties shall have no right of appeal or judicial review of the decision whatsoever. The parties hereby waive any such right of appeal or judicial review which may otherwise be provided for in any provincial arbitration statute. Judgement upon the award, including any interim award, rendered by the arbitrator may be entered in any court having jurisdiction. The arbitration shall be kept confidential and the existence of the arbitration proceeding and any element thereof (including but not limited to any pleadings, briefs or other documents submitted and exchanged and testimony and other oral submissions and any awards made) shall not be disclosed beyond the arbitrator(s), the parties, their counsel and any person to whom disclosure is necessary to the conduct of the proceeding except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.
- 12 **Limitation Period**
- 12.1 You shall make any claim relating to Services or otherwise under this Agreement no later than one year after you became aware or ought reasonably to have become aware of the facts giving rise to any such claim.
You shall in no event make any claim relating to the Services or otherwise under this Agreement later than four years after the completion of the Services under this Agreement.
- 12.2 To the extent permitted by law, the parties to this Agreement agree that the limitation periods established in this Agreement replace any limitation periods under any limitations act and/or any other applicable legislation and any limitation periods under any limitations act and/or any other applicable legislation shall not alter the limitation periods specified in this Agreement.
- 13 **Québec Personnel**
- 13.1 We may sometimes have individual partners and employees performing Services within the Province of Québec who are members of the Ordre des comptables professionnels agréés du Québec. Any such members performing professional services hereunder assumes full personal civil liability arising from the practice of their profession, regardless of their status within our partnership. They may not invoke the liability of our partnership as grounds for excluding or limiting their own liability. Any limitation of liability clauses in this Agreement shall therefore not apply to limit the personal civil liability of partners and employees who are members of the Ordre des comptables professionnels agréés du Québec
- 14 **Termination**
- 14.1 This Agreement applies to Services whenever performed (including before the date of this Agreement).
You or we may terminate this Agreement at any time upon written notice of such termination to the other party. We will not be liable for any loss, cost or expense arising from such termination. You agree to pay us for all Services performed up to the date of termination, including Services performed, work-in-progress and expenses incurred by us up to and including the effective date of the termination of this Agreement.
- 15 **Governing Laws**
- 15.1 The terms of our engagement shall remain operative until amended, terminated, or superseded in writing. They shall be interpreted according to the laws of the province or territory in which BDO's principal Canadian office performing the engagement is located, without regard to such province/territory's rules on conflicts of law.
- 16 **Survival**
- 16.1 The provisions of this Agreement that give either of us rights or obligations beyond its termination shall continue indefinitely following the termination of this Agreement. Any clause that is meant to continue to apply after termination of this Agreement will do so.



17 Force Majeure

17.1 We will not be liable for any delays or failures in performance or breach of contract due to events or circumstances beyond our reasonable control, including acts of God, war, acts by governments and regulators, acts of terrorism, accident, fire, flood or storm or civil disturbance.

18 Assignment

18.1 No party may assign, transfer or delegate any of the rights or obligations hereunder without the written consent of the other party or parties. BDO may engage independent contractors and BDO Member Firms to assist us in performing the Services in this Agreement without your consent.

19 Severability

19.1 The provisions of this Agreement shall only apply to the extent that they are not prohibited by a mandatory provision of applicable law, regulation or professional standards. If any of these provisions shall be held to be invalid, void or unenforceable, then the remainder of this Agreement shall not be affected, impaired or invalidated, and each such remaining provision shall be valid and enforceable to the fullest extent permitted by law.

Letter version: 20230630

T&C version: 20230630

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This is Exhibit "S" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



125 VILLARBOIT CRESCENT
VAUGHAN, ONTARIO
CANADA L4K 4K2

EMPIRECOMMUNITIES.COM
T 905 307 8102
F 905 307 8103

October 12, 2023

Vandyk Properties Inc.
1944 Fowler Drive
Mississauga, ON L5K 0A1

Re: Non-Binding Expression of Interest for the purchase of assets of Vandyk Properties Inc., including its subsidiaries and affiliated companies ("Vandyk", or the "Company")

Dear John C. Vandyk:

Further to our recent discussions and the confidentiality and non-disclosure agreement dated as of July 26, 2023 between the Company and Pad Investments Ltd. ("Empire", a company affiliated with Empire Communities Corp. ("ECC")) (the "**Non-Disclosure Agreement**"), we are pleased to submit this confidential, non-binding expression of interest (this "**EOI**" and the transaction contemplated by this EOI, the "**Transaction**"). This EOI is intended to acknowledge Empire's interest in continuing discussions with the Company towards a transaction or transactions that are being considered by Empire to purchase the following project assets from the Company:

- 1) Proposed high-rise residential condominium project located at 23 Buckingham Street, Etobicoke, Ontario (the "**Buckingham Project**");
- 2) Proposed high-rise residential condominium project located at 237 Royal York Road, Etobicoke, Ontario;
- 3) Proposed high-rise residential condominium project located at 39 Newcastle Street, Etobicoke, Ontario;
- 4) Proposed low-rise residential project located at 320 Derry Road West, Mississauga, Ontario;
- 5) Proposed mid-rise residential condominium project located at 15 Neighbourhood Lane, Etobicoke, Ontario;
- 6) Proposed low-rise residential project located at 10194 Heart Lake Road, Brampton, Ontario; and
- 7) Proposed low-rise residential project located at 3111-3123 Cawthra Road, Mississauga, Ontario. (collectively, the "**Projects**").



We further acknowledge that while we have had opportunity to review certain initial due diligence materials in respect of the Buckingham Project, our due diligence investigations with the respect to the other Projects remains at a preliminary stage.

This EOI is based on the preliminary information and materials provided by the Company to date. Any definitive offer by Empire is subject to customary transaction and legal due diligence.

About ECC

ECC is one of North America's premier residential homebuilders, with a proven track record for developing, constructing and selling numerous low-rise and high-rise projects throughout the GTA and southwestern Ontario and, through its subsidiaries, in Texas, North and South Carolina, Georgia and Tennessee in the US. Guided by the leadership of Co-Ceos Daniel Guizzetti and Andrew Guizzetti, Empire continues to build upon its 30-year history through expansion into new markets and the continued growth of its operations in established markets.

We believe that Empire is uniquely positioned to be the right partner for the Transaction for the following reasons:

- **Experienced Residential Developers:** ECC has developed and delivered numerous low-rise and high-rise residential communities in the markets in which the Company's assets are located. ECC has the requisite experience, skill and resources to effectively see through the completion of the Company's vision in connection with the subject projects.
- **Balanced scale and flexibility:** Although Empire has vast operations, operationally ECC remains flexible and able to respond quickly to new opportunities. In this regard, ECC has recent experience in completing enterprise-level acquisitions. ECC's operational flexibility means that it can quickly approve the Transaction and can also minimize the overall complexity of the deal.
- **Capital Resources:** ECC's high yield bonds and umbrella revolving credit facility, plus significant relationships and experience with capital partners provide ECC with access to strong funding sources to complete the proposed acquisition.

Transaction Details and Purchase Price

As Empire is only beginning its consideration of a majority of the Projects, it is premature to suggest a transaction structure or purchase price in respect of the Transaction. However, Empire wishes to reiterate that it is encouraged by the due diligence investigations that it has undertaken to date and that it wishes to continue negotiations with the Company towards the completion of a Transaction. Empire's intention would be to further discuss the structure and pricing in respect of the Transaction as part of its further negotiations with the Company. Empire acknowledges the current outstanding debt related to the Projects, and understands that the currently estimated aggregate cost required to discharge such debt is \$272,000,000.00, as further set out in Schedule A hereto.



Financing

Where the Transaction moves forward, we expect to finance the purchase price for the Projects through a combination of our existing high-yield bonds (bookrunner: JPMorgan Chase), syndicated revolving credit facility (agent: JPMorgan Chase) and the inclusion of third-party equity partners on either an aggregate or project-by-project basis. These financing sources are similar to our existing approach to the financing of other material project assets that are purchased by ECC in the ordinary course.

Due Diligence

As discussed above, provided that the Company is able to provide Empire with a period of time (discussed further below) in which to more fully review the Projects, Empire would look to immediately deploy significant internal and external resources to conduct our usual feasibility, development, sales and legal due diligence in respect of the Projects. ECC has fully-staffed internal finance and acquisitions, development, construction and legal teams that will complete the required review and negotiations in respect of the proposed acquisition set out herein. We would also look to retain certain of the Company's existing external consultants in order to create additional efficiencies in the review process, or to otherwise retain national consultants with whom we have existing relationships, as these entities will have the necessary capacity to conduct the volume of reviews required to properly complete due diligence on all of the Projects concurrently.

Potential Enforcement Against the Company and Transaction Timing

We understand that certain of the Company's lenders may be considering enforcement proceedings against the Company or its assets. In acknowledgement of these potential upcoming enforcement proceedings, we suggest a short, thirty (30) day due diligence period during which Empire is granted access to the full set of the Company's information in connection with the Projects on an exclusive basis in order to complete its due diligence investigations and to put forward a proposed acquisition structure for the Transaction. During this period (as may be extended pursuant to the immediately following paragraph), the Company will not enter into any arrangements, or engage in discussions with other parties with respect to a sale of its interest in the Projects or any one of them or a development of the Projects or any one of them or any potential project or transaction involving the Projects, or take any other action that

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would prevent it from proceeding with the Transaction on the terms set out in this Expression of Interest. This exclusivity obligation will be binding on the Company. We wish to note that our interest herein is based on being able to acquire the full set of Projects and therefore the exclusivity obligations herein must apply to each Project.

Following such thirty (30) day due diligence period, where Empire provides written notice, in its sole and unfettered discretion, that it wishes to proceed with a Transaction, the parties will act in good faith with one another to negotiate the definitive agreement(s) (collectively, the "**Definitive Agreement**") for such Transaction with the expectation that Definitive Agreement be executed thirty (30) days following the expiration of the above due diligence period and the parties agree that the exclusivity in favour of Empire set out herein shall continue during such additional thirty (30) day period.

We believe that, where an agreement in connection with the Transaction for all of the Projects can be reached, the Transaction would represent an efficient resolution to the ongoing matters between the Company and its lenders and may obviate the need for such lenders to employ formal enforcement proceedings against the Company.

Please advise us as soon as practicable whether such thirty (30) day due diligence period can be agreed to. Where helpful, we would welcome taking part in discussions between the Company and its lenders in order to more fully explore potential options towards the Transaction and how such Transaction may be of mutual benefit to the Company, its lenders and Empire.

Deposit

Concurrent with the execution of this Expression of Interest, Empire agrees to pay to its solicitors, in trust, a refundable deposit of One Million Dollars (\$1,000,000.00) (the "**Deposit**"), to be held in trust by Empire's solicitors as further set out herein. Where a Definitive Agreement is executed between the Parties, the Deposit shall form part of Empire's deposit in respect of the Transaction. If the Definitive Agreement(s) contemplated in this Expression of Interest are not executed for any reason the Deposit shall be forthwith refunded to Empire. For certainty, Empire may, by written notice to the Company, terminate this Expression of Interest and all related negotiations with the Company at any time prior to the execution of the Definitive Agreement. Upon the provision of such notice of termination by Empire, the Deposit shall be immediately refunded to Empire without set-off.




Confidentiality

Empire and ECC acknowledge and confirm that the existence and the content of this EOI shall constitute Confidential Information (as defined in the Non-Disclosure Agreement) and shall governed by the Non-Disclosure Agreement.

We trust that this EOI will meet with your approval. We look forward to further reviewing the proposed acquisition set out above and to working with you toward the Transaction.

Very truly yours,

PAD INVESTMENTS LTD.

DocuSigned by:
By: 
FABA07E163614A8

Andrew Guizzetti
Treasurer & Co-CEO

If the Company is in agreement with the terms set forth above, on a non-binding basis except as otherwise set out above, please sign this Expression of Interest in the space provided below and return an executed copy by 5:00 p.m. on October 13, 2023 to the attention of Mr. Andrew Guizzetti

VANDYK PROPERTIES INC.

By: 
John Vandyk
President & CEO
OCT. 13/23

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Schedule A

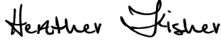
Project	O/S Bank Debt	Discharge Provision	Lender	Comments
Buckingham	\$ 37,783,562	\$ 37,783,562	MCAP	includes o/s interest
Newcastle	\$ 73,000,000	\$ 73,000,000	Otera	
Royal York*	\$ 45,341,274	\$ 60,000,000	KINGSETT	includes o/s interest
Heartlake	\$ 30,000,000	\$ 30,000,000	KINGSETT	
Derry Rd	\$ 3,658,410	\$ 3,658,410	KINGSETT	LC Facility
Derry Rd	\$ 32,665,627	\$ 32,665,627	KINGSETT	includes o/s interest
Kingsmill**	\$ 34,330,788	\$ 34,330,788	MCAP	

*Kingsett has higher discharge than o/s as a provision to ensure adequate discharge proceeds from other assets noted herein

**Kingsmill o/s is current balance. The current loan facility does provide for advances up to an aggregate of \$83,000,000

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This is Exhibit "T" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

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VANDYK-BACKYARD KINGS MILL LIMITED

REPORT TO MCAP FINANCIAL CORPORATION

November 14, 2023

Private and Confidential





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1.0 ENGAGEMENT

BDO Canada Limited (“BDO”) was engaged by MCAP Financial Corporation (“MCAP” or the “Lender”) as its financial advisor to conduct a review of the Kings Mill Condos (the “Project”) pursuant to the terms of our Engagement Letter, a copy of which is attached hereto as **Appendix ‘A’**. As outlined therein, BDO’s mandate includes, but is not limited to, working closely with C.B. Ross Partners (“CB Ross”) to perform the following:

- Review and confirm the adequacy of the current Project Budget;
- Review and confirm the adequacy of Costs to Date and Costs to Complete;
- Provide an accounting of all Trade Payables up to and including CB Ross Report 20 (“CBRR 20”) giving rise to the May Shortfall (as defined herein) and Trade Payables that have been incurred to date; and,
- Review and confirm the adequacy of the Borrower’s Schedule (being the Company’s Project Summary and related construction schedule), cashflow projections and contingency reserve.

In addition to the engagement scope, during our mandate BDO assisted with various additional requests including a Project Site visit to assist in conducting an assessment / analysis of winterizing the Property.

Engagement Scope Limitation

In relation to Item 1(e) of the Engagement Letter, subsequent to executing the Engagement Letter, BDO was advised that it would not be in the best interests of the Company if BDO contacted the vendors directly and CB Ross advised also advised us that they are not in direct contact with the vendors. Further, at our initial meeting with the Company, we were advised Management had directly requested the vendors to provide a current statement of account which would be forwarded to us. As a result, BDO is not in direct communication with the vendors, and therefore BDO is not able to verify if there are deferrals, side agreements or any other arrangements that would allow for payments to be otherwise deferred.

While we have no reason to believe that the Vendor Statements submitted by the Company to BDO have been altered, we are not certain. To mitigate this scope limitation, as third-party evidence, BDO reviewed the lien claim amounts registered against the Project versus the Company’s reported balances, which is outlined herein.



Disclaimer

In preparing this report, and in conducting our review we have, as necessary, relied upon internal, unaudited financial and other information supplied, and representations made to us, by the Borrower and CB Ross. This includes discussions and analysis with Management (as defined herein), along with other publicly available information. All figures herein are sourced from the Company's internal, unaudited records as provided to BDO by the Company or CB Ross. Although the information has been reviewed for reasonableness, BDO has not independently verified the accuracy or completeness of the information or conducted an audit, nor are we providing any other form of assurance.

The procedures we have performed are limited in nature and as such, our work may not necessarily disclose all significant matters about the Company. BDO expressly disclaims any and all liability for any unidentified errors, misstatements, irregularities or illegal acts (if such exist) on the part of the Companies, its officers, employees or advisors in the underlying information and makes no representations or warranties, expressed or implied.

We have not obtained a legal opinion regarding the Lenders' security. For the purpose of this report, we have assumed that the Lenders' security is valid and enforceable. We have not had direct contact with any customers or suppliers to the Company. Thus, the information and analysis contained herein, has been prepared solely using information supplied by Management and CB Ross.

This report is private and confidential and is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose, other than to assist with the specific matters discussed herein, without our prior written consent in each specific instance. We will not assume any responsibility or liability for damages or losses occasioned by anyone as a result of the circulation, publication, reproduction or use of this report, contrary to this disclaimer. Any use which a party makes of this report, or any reliance on or decisions to be made based on it, are the responsibility of such party. BDO does not accept any responsibility for damages, if any, suffered by any party as a result of decisions made or actions taken based on this report.



2.0 EXECUTIVE SUMMARY

This Executive Summary provides an overview of our review and findings relating to the Kings Mill Condos Project Budget, estimation of costs to complete, and schedule analysis for the Project and related outstanding Trade Payables. Any items capitalized herein are as defined in the body of the Report or related Appendices.

Background:

Vandyk-Backyard Kings Mill Limited is constructing a 10-Storey, 234 Unit residential condominium known as 'Kings Mill Condos' (the "Project") on land municipally known as 15 Neighbourhood Lane.

BDO Canada Limited ("BDO") was engaged to, among other matters: review the Project Budget (including verifying costs to date and reviewing costs to complete) and related Schedule; review the shortfall in vendor payments in relation to Project Funding as at May 2023; and review current trade payables.

Current Situation:

Construction of the Project has stalled due to a significant shortfall in the remittance of vendor payments relative to Project funding through to May 2023. Management confirmed that Project funding was diverted to pay costs and expenses of construction projects of other related companies. The stalled Project is at risk of significant additional delays and future cost overruns and/or pricing escalations.

Project Budget Overview:

The total Project Budget as of August 31, 2023, stands at \$118.0 million, up from the initial Budget of \$110.4 million. The Project is currently expected to face budget challenges due to project delays, market price increases and additional interest costs resulting from the delays.

Costs to Date:

BDO's review of the reported costs to date through to August 2023 CB Ross Report 21, totaling \$68.96 million together with the associated payments totaling \$54.32 million, encompassed a review of documentation in support of the charges included in the Cost Submissions as well as tracing Project payments.



Overall, BDO verified \$53.52 million (75.7%) of total Project costs to date and \$46.41 million (85.4%) of total Project payments.

In addition to the Cost Submissions, BDO identified a further \$1.3 million in costs incurred to August 31, 2023, which were not previously submitted in funding requests, resulting in an increase to Costs to Date and associated reduction in Costs to Complete as at August 31, 2023. A portion of this amount relates to the approved percentage completion of a disputed invoice which Vandyk has not yet submitted for funding.

Borrower's Schedule Analysis:

The review of the Borrower's Schedule dated October 27, 2023, identified 286 days of delay in Scenario 1. The Borrower's Schedule included a Hold Period until December 4, 2023, during which no works were scheduled to be performed. In the event that the Hold Period is extended beyond December 4, 2023, the Project is expected to incur further critical delays depending on the extended Hold Period. The critical activity driving the critical path is identified to be delivery and installation of elevators. BDO's view is that any delays in procuring the elevators would further delay the Project completion.

Costs to Complete:

To estimate the costs to complete, we have carried out our analysis in two Scenarios.

- i. Scenario 1 included the review of the Borrower's Schedule updated as of October 27, 2023, and estimated the costs to complete applying the current market price to the 'Uncommitted Costs' in the Budget.
- ii. Scenario 2 included a review of the Borrower's Schedule update as of October 27, 2023, introducing an additional 4.5 months Hold Period and estimating the costs to complete applying the projected price escalation factor to both 'Committed' and 'Uncommitted Costs' in the Budget.

The estimation of costs to complete indicates that the Project is at risk of significantly exceeding the initial budget under both Scenarios. The estimated costs to complete are expected to rise substantially by \$4.85 million and \$12.67 million in Scenario 1 and Scenario 2, respectively. This is primarily due to the aforementioned delays, market price increase and additional interest costs resulting from the project delays.



Contingency Reserve: The review of the Borrower's Schedule and estimation of costs to complete indicate a need to increase the contingency reserve to address the challenges identified as outlined in Scenario 1 and Scenario 2, above. It is imperative to establish a robust contingency reserve to address the escalating project costs. This reserve will be essential for managing the Project's budget and mitigating the risk of further cost increases.

TRADE PAYABLES:

May 2023 Funding Shortfall Review:

Overall, the Company's Project Funding shortfall (represented by funded cost submissions versus the related payments made to vendors) through to CB Ross Report #20, is reported to be a net shortfall balance of \$9.7 million (the "May Shortfall").

The May Shortfall is prior to consideration of payments made by Vandyk to certain vendors in excess of their associated funding requests, resulting in approximately \$1.3 million in vendors with 'Credit Balances'. The Credit Balances represent payments made to vendors for amounts outstanding relative to amounts funded and accordingly do not reflect actual credits owing back from the vendors.

Excluding Credit Balances, the Adjusted Shortfall (as defined herein) that would be required to fund outstanding obligations to vendors and commissioned Agents who were not paid in full to the May 2023 draw is \$11.0 million.

Relative to the respective sources of Project Funding, the Adjusted Shortfall of \$11 million is split between \$9.55 million relating to MCAP funding and \$1.45 million for Westmount funding on commissioned Agents.

Based on our review of the Vendor Statements provided to BDO we have verified approximately 90% of the reported Section J Construction vendor balances and, including the Parkland and Education Levy, approximately 94% of the Section B Planning & Preconstruction balances.

Accounts Payable Review as at September 2023

The Company's AP listing as at September 30, 2023 totals \$16.23 million relating primarily to trade vendors and commissioned Agents.

BDO reconciled approximately 91% of the reported September 30, 2023 AP to Vendor Statements.



Further, BDO reviewed the associated Lien Claims filed by seven (7) vendors. Overall, the Lien Claims filed totaled \$14.36 million (believed to include billed amounts and Holdbacks) compared to \$13.37 million reported in the Company's AP (\$11.96 million or 74% of total September AP) and related Holdbacks (\$1.41 million) for said customers resulting in a variance of \$984,000.

Based on our review, with the exception of a \$90,000 unknown variance in the Plycon Lien Amount and certain disputed Dircam and Dolvin invoices which are to be resolved and/or proceed to dispute resolution, the Company's AP and Holdback balances for the Lien Claimants appear within reason and to a large extent support the Adjusted Shortfall as at May 2023 and the total reported AP as at September 30, 2023.

For comparative purposes to the Adjusted Shortfall as at May 2023, in addition to the September 30, 2023 AP, the total Project obligations as at September 30, 2023 would include the uninvoiced commissioned Agents and the outstanding Parkland and Education Levy amounts offset by net adjustments for disputed invoices. Accordingly, as at September 30, 2023, the outstanding Project obligations are estimated to total \$18.04 million (and \$20.28 million including Holdbacks).

Recommendations:

In the event, the Company successfully sources financing to rectify the Adjusted Shortfall, and MCAP agrees to continue to finance the completion of the Project, in order to minimize potential risks in relation to vendor payments and cost overruns/escalations, we recommend that the Project and the Company be very closely monitored as follows:

- Project vendor payments to be made directly via MCAP (or other designated 3rd Party);
- Develop a strategy for engaging with vendors to ensure visibility on costs incurred, invoicing and confirmation of payments;
- In support of Project payments to vendors, request Vendor Statements on a monthly basis. This will:
 - Ensure that all costs/invoices incurred have been properly identified by all parties and included in the submission of costs to the Cost Consultants;
 - Avoid any unforeseen or accruing costs; and,
 - Reconcile any uncommitted costs to final executed contract(s)/P.O.'s to ensure within budget and/or sufficient Contingency Reserve;
- Implement enhanced monitoring and update Costs to Date and Costs to Complete to maintain Project Budget transparency;



- Review Contingency Reserve monthly to evaluate the adequacy of the Contingency Reserve to align with potential risks and uncertainties as the Project progresses;
- Close monitoring of the Borrower's Schedule to identify critical issues that would have an impact on the Project completion; and,
- Review and approve change orders judiciously to avoid budget overruns.



3.0 BACKGROUND

Vandyk-Backyard Kings Mill Limited (“Vandyk”, the “Company” or the “Borrower”), was incorporated under the laws of the province of Ontario on March 16, 2016 for the purpose of acting as a trustee corporation for Vandyk-Backyard HumberSide Limited (the “Beneficial Owner”) in the lands and premises together with all the personal property in the lands. As trustee, the Company has no beneficial interest in the lands or in any proceeds to be derived from the lands and is bound to restrictions as imposed by agreement or as otherwise directed by the Beneficial Owner. The land is municipally known as 15 Neighbourhood Lane (the “Site”). The Site is part of a multi-phase development. Thereon, the Company is constructing a 10-Storey, 234 Unit residential condominium known as ‘Kings Mill Condos’ (the “Project”).

BDO’s main points of contact with the Company were Richard Ma, CFO, Managing Director, and Natalie Chan, Director, Finance and Compliance, whose term with the Company ceased on or around October 31, 2023. Additionally, BDO had limited correspondence with Domenic Zita, Executive VP, Managing Director, Operations and John Vandyk Jr., Managing Director, Construction (collectively “Management”).

CB Ross has supplied BDO with documents relating to the Project, including planning and development, drawings, costing information and their Monitoring Reports #1 through #20 together with the draft CB Ross Report #21 (“CBRR 21”). In the course of our review, we have made various requests for information and queries to both CB Ross and Management.

The information that has been provided is being reviewed in relation to BDO’s mandate and in particular, the determination of the Project Budget together with the costs to date and associated accounts payable (“AP”) and costs to complete. BDO’s Construction Advisory Group assisted in this mandate, reviewing the reasonableness of the Project Budget and Construction Schedule and considered change orders, cost overruns, and/or other factors affecting the Project Budget.

We caution that the schedules and analysis provided by Vandyk are primarily in excel, rather than their internally generated reporting from their accounting software system. Management advises that given the fluidity and quantity of details associated with the Project, the information is more accurately/efficiently tracked in spreadsheets rather than the Company’s accounting software system, which is generally delayed in being updated and/or the information may not be entered accurately. We note that in utilizing excel, there is the inherent risk that

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information may be manipulated more easily than in an accounting software system as well as being more susceptible to errors and omissions.



4.0 PROJECT BUDGET REVIEW

Initial Project Budget

The initial budget for the Project was established at \$110.39 million. This budget encompassed all phases of the Project, including land acquisition, approvals, design, pre-construction, construction, and post-construction.

<i>(000's)</i>				
Section	Description	Initial Budget	% of Total	Notes
		\$	%	
A	Land	17,050	15.4%	
B	Planning & Preconstruction	12,006	10.9%	
C	Administration	98	0.1%	
D	Sales / Marketing / Commissions	5,309	4.8%	
E	Finance	1,842	1.7%	
F	Contingency	892	0.8%	
G	Development Interest	7,115	6.4%	
H	Interest On Purchasers Deposits	-	0.0%	
I	Occupancy Costs	402	0.4%	
J	Construction	67,519	61.2%	
K	Revenue	(1,844)	-1.7%	(i)
L	Taxes	(0)	0.0%	
Total Project Costs		110,388	100.0%	

- i. The 'Revenue' budget is primarily occupancy revenue budgeted to be earned prior to the Owners' taking possession of their purchased units.

The construction budget was estimated to be \$67.5 million (i.e., 61% of the overall Project's initial budget). The construction budget encompassed an estimate for construction costs and other categories including permit, insurance, warranty, construction management fee and contingency. The initial construction contingency ("**Hard Cost Contingency**") formed 4.0% of the construction budget. A break-up of the construction budget is shown in the table below.

<i>(000's)</i>		
Description	Initial Budget - Construction	% of Total
	\$	%
Permit, Fees & Deposits	455	0.7%
Insurance	150	0.2%
Service & Warranty	117	0.2%
Construction Costs	63,102	93.5%
Construction Manager's Fee	1,000	1.5%
Contingency	2,695	4.0%
Total	67,519	100.0%



Current Budget Status

As of August 31, 2023, the current budget for the Project stands at \$118.0 million, reflecting \$7.62 million in changes and adjustments made since the initial Project budget.

(000's)				
Section	Description	Initial Budget	Current Budget	Variance
		\$	\$	\$
A	Land	17,050	17,342	292
B	Planning & Preconstruction	12,006	12,414	408
C	Administration	98	210	112
D	Sales / Marketing / Commissions	5,309	5,238	(71)
E	Finance	1,842	2,580	738
F	Contingency	892	380	(512)
G	Development Interest	7,115	9,970	2,855
H	Interest On Purchasers Deposits	-	762	762
I	Occupancy Costs	402	286	(116)
J	Construction	67,519	70,860	3,341
K	Revenue	(1,844)	(2,033)	(189)
L	Taxes	(0)	-	0
	Total Project Costs	110,388	118,009	7,621

Changes to the Budget

There have been several changes and revisions to the Project Budget throughout the Project, including:

- i. Change Orders: The Project had provisions for change orders to accommodate changes or modifications to the scope or cost. A Summary of the Change Order Log is attached as **Appendix 'B'**.
- ii. Contingency Use: A contingency fund was established within the budget to address unforeseen changes and project uncertainties. We tracked the allocation of contingency funds to understand their utilization. A summary of the contingency fund allocation is attached as **Appendix 'C'**.

As of August 31, 2023, the current budget for Construction stands at \$70.86 million (i.e., 60% of the total Project's current budget). The construction budget has increased by \$3.34 million. A break-up of the current construction budget is shown in the table below:



<i>(000's)</i>		
Description	Current Budget -	
	Construction	% of Total
	\$	%
Permit, Fees & Deposits	485	0.7%
Insurance	349	0.5%
Service & Warranty	117	0.2%
Construction Costs	66,449	93.8%
Construction Manager's Fee	1,464	2.1%
Contingency	1,996	2.8%
Total	70,860	100.0%

The current construction costs as of August 31, 2023 stands at \$66.45 million (i.e., 94% of the total current construction (Section J) budget of \$70.86 million). The Hard Costs Contingency remains at \$1.99 million. The current construction cost included an estimate for key construction elements such as labour, materials, trades, equipment and overhead. A detailed break-up of the current construction cost is shown in the table below:

<i>(000's)</i>	
Description	Current Budget
	\$
DIVISION 1 - SITE OVERHEAD	4,077
DIVISION 2 - SITE WORK	8,233
DIVISION 3 CONCRETE & FORMWORK	20,654
DIVISION 4 MASONRY	500
DIVISION 5 METALS	1,008
DIVISION 6 CARPENTRY	2,242
DIVISION 7 THERMAL & MOISTURE PROTECTION	2,410
DIVISION 8 DOORS & WINDOWS	3,956
DIVISION 9 FINISHES	7,015
DIVISION 10 SPECIALTIES	163
DIVISION 11 EQUIPMENT	904
DIVISION 12 FURNISHINGS	193
DIVISION 13 SPECIAL CONSTRUCTION	25
DIVISION 14 ELEVATORS	602
DIVISION 15 MECHANICAL	10,775
DIVISION 16 ELECTRICAL	3,690
DIVISION 17 OTHER	-
	66,449
CONTINGENCY	1,996
Total Construction Cost	68,445



5.0 ACTUAL COSTS-TO-DATE

Costs to date through to CBRR 21 total \$68.96 million, an increase of \$5.92 million relative to CBRR 20 as illustrated in the chart below:

(000's)		Cost	Cost	Increase
Section	Category	Submissions as at CBRR 20	Submissions as at CBRR 21	(Decrease)
		\$	\$	\$
A	Land	17,287	17,287	-
B	Planning & Preconstruction	12,252	10,718	(1,534)
C	Administration	206	206	-
D	Sales/Marketing/Commission	2,712	2,712	-
E	Finance	1,534	2,307	773
F	Contingency	-	-	-
G	Development interest	3,036	3,804	769
H	Interest on purchaser deposits	-	-	-
I	Occupancy costs	-	-	-
J	Construction	25,456	30,771	5,315
K	Revenue	-	-	-
L	Taxes	547	1,151	603
	Total	63,029	68,955	5,925

Increases in Project costs as at CBRR 21 are primarily associated with Construction costs incurred, and Finance and Development Interest offset by a credit to the Planning and Preconstruction category relating to a reduction in the Parkland and Education Levy. As detailed further in **Appendix 'D'**, we have verified \$53.52 million (75.7%) of total Project costs (exclusive of holdback deductions and HST) (the "Cost Submissions") based on our review of the costs to date.

Excluded Costs

The Company provided BDO with detailed spreadsheets by vendor (or sub-code classification) listing the amounts funded relative to the Project costs incurred/invoiced and issued payments (the "Vendor Tracking").

BDO compared the largest costs reported in CBRR 21 to the Company's Vendor Tracking to assess whether CBRR 21 reflected reported Project costs-to-date as of August 31, 2023. Our review encompassed 10 vendors in the Construction category with costs of \$24.74 million (80.4% of Construction costs) on CBRR 21. We identified that seven (7) of the 10 vendors selected had



costs-to-date which differed by \$183,000 in aggregate, from the amount reported on CBRR 21, as summarized in the chart below:

<i>(000's)</i>			
Vendor	Cost Submissions in CB Ross #21	Per Vendor Tracking	Variance
	\$	\$	\$
Plycon - Contract	11,953	11,923	(30)
Viola & ML Ready Mix	2,730	2,898	168
Roni	2,476	2,468	(8)
Salit Steel	1,910	2,019	109
Iron shoring	1,310	1,310	(0)
Dircam Electric Ltd	1,149	817	(332)
Lido Wall	1,081	1,081	-
Dolvin	872	872	-
Alliance Site Construction Ltd.	694	631	(63)
KC Structural	564	537	(27)
	24,737	24,555	(183)
<i>% of total construction costs</i>	<i>80.4%</i>		
Other vendors	6,034		
	<i>19.6%</i>		
Total Section J Construction Costs	30,771		

The factors associated with the four largest differences noted above between CBRR 21 and actual costs-to-date are detailed in **Appendix 'E'**.

Based on the differences identified in the largest vendor balances, we expanded our comparison to include a cursory review of other vendors in CBRR 21. The overall analysis identified a \$1.36 million net balance of invoices which have not been included in Cost Submissions to CBRR 21, offset by Cost Submissions in excess of invoices (mainly from disputed invoices) (the "Excluded Costs"). The following chart provides a summary of Excluded Costs as at CBRR 21:



<i>(000s)</i>		Excluded Costs
Vendor		as at CBRR 21
		\$
Dolvin		657
Site staff		318
Viola and ML Ready Mix		168
Ararat Welding		120
Salit Steel		109
Tarra Engineering		68
Toddglen Consulting Inc		60
Classic Tile		56
CB Ross		49
Toronto Water		47
Subtotal		1,650
Other invoiced costs not submitted for funding		269
Total invoiced costs not submitted for funding		1,919
Offset: Cost Submissions in excess of invoiced amounts		(559)
Total Excluded Costs		1,361

CB Ross has advised that costs would not be submitted for MCAP Funding if the Company did not have documentation to support the payment. However, these costs would be included in assessing actual costs-to-date and, consequently, costs to complete. For the purpose of this report, the Excluded Costs are considered to be part of the original Project budget.

The revised actual costs-to-date have been recalculated as \$70.32 million, as summarized in the chart below:

<i>(000's)</i>		Cost	Total additions	Total actual
Section	Category	Submissions up to CBRR 21	to actual costs to date	costs-to-date as at Aug 2023
		\$	\$	\$
A	Land	17,287	-	17,287
B	Planning & Preconstruction	10,718	-	10,718
C	Administration	206	-	206
D	Sales/Marketing/Commission	2,712	-	2,712
E	Finance	2,307	-	2,307
F	Contingency	-	-	-
G	Development interest	3,804	-	3,804
H	Interest on purchaser deposits	-	-	-
I	Occupancy costs	-	-	-
J	Construction	30,771	1,361	32,132
K	Revenue	-	-	-
L	Taxes	1,151	-	1,151
	Total Costs before Holdbacks	68,955	1,361	70,316
	Less: Holdbacks	(2,241)	-	(2,241)
	Net Costs to Date	\$ 66,714	\$ 1,361	\$ 68,075



Based on our review and related sampling, Project Funding up to CBRR 21 has Cost Submissions which are supported by applicable vendor invoices and payments which are supported by applicable payment verifications. The results of BDO's procedures and testing results are included in **Appendix 'D'**.

Our review of payments identified that trade payments for the Project are being made from multiple bank accounts, including the bank accounts of other related Inter-corporate entities. Inter-corporate accounts are discussed in the 'Other Matters' section of this report.



6.0 PROJECT SCHEDULE REVIEW

In order to assess the adequacy of the Project schedule and determine cost to complete, we have performed a detailed critical path analysis. This section sets out the delay analysis options and the rationale for selecting the delay analysis methodology used in our analysis. To identify the most suitable method of analysis, the following steps were undertaken:

1. Review of the various methods of delay analysis;
2. Review of schedules and other records that are available for analysis; and,
3. Selection of the delay analysis methodology used in our loss quantification for this Project.

Methods of Delay Analysis

There are various methodologies that can be used to verify and demonstrate the existence of a construction delay. The selection of the appropriate method will typically be determined by a variety of factors, such as the purpose of the analysis, the timing of the analysis, the availability of contemporaneous information, the complexity/durations of the contributory and consequential events, and so forth.

Depending on the timing of the analysis, the available methods can be classified as:

- i. Prospective: Performed in real-time before the delay period or in real-time, contemporaneous with the delay event. A prospective delay analysis identifies the likely impact of delay events according to contractual deadlines. The conclusions of a prospective delay analysis may not match the as-built schedule because the contractor's actual performance may be influenced by the effects of attempted acceleration, re-sequencing, or redeployment of resources. In most cases, prospective delay analysis is theoretical.
- ii. Retrospective: Performed after the delay event has occurred and the impacts are known. The timing of analysis may be soon after the delay event but before the completion of the overall project, or after the completion of the entire project. A retrospective delay analysis refers to the historical chronology of events and identifies the actual impact of the delay events along the actual critical path.



In either case, a delay analysis requires the identification of the critical path(s)¹ to the completion date and the measurement of the delays to activities that reside on the critical path.

The selection of the analysis methodology and its implementation depends on various schedule-related factors, such as the type/format of the schedule and its level of detail, the availability of a baseline schedule and/or updated as-built schedules and contemporaneous information needed as inputs to undertake the analysis.

Based on the information available, it is our view that the “Time Impact Analysis” is the most appropriate delay analysis methodology to demonstrate the delays to the Project Completion. The “Time Impact Analysis” involves introducing a delay event into a logic-linked programme and determination of the prospective impact of the delay event on the completion dates using a Critical Path Method (CPM) of analysis. This methodology measures the impact of an ongoing delay event on an ongoing project as it evaluates the historical components that reflect the actual progress of the works and considers the future sequences and durations for the works.

The programme for this method of analysis can be either an updated baseline programme or programmes with progress information up to the nearest date of the delay event.

The schedules² reveal the critical path and the critical delay status at the status date of the schedule. The difference in the Project Completion date at the status date to the baseline programme measures the extent of potential critical incurred delays to the project.

This methodology is used throughout the construction industry and is widely accepted for the analysis of project delays in an ongoing project.

Critical Path Analysis

To ascertain the potential delay to the Project Completion date, we reviewed the Borrower’s schedule update dated October 27, 2023 (the “**Borrower’s Schedule**”).

¹ The critical path is the longest sequence of interrelated activities that are determinative, at any point in time, of completion. Any delay to an activity appearing on the critical path will delay the Project completion.

² Schedule refers to a detailed plan that outlines the sequence of activities and tasks required to complete a construction project within a specified timeframe. A schedule update refers to the process of revising and modifying the existing construction schedule to reflect the current progress, changes, and any unforeseen events that have occurred since the original schedule was created.



The Borrower's Schedule update showed an anticipated construction completion date of March 6, 2025, and an occupancy completion date of April 21, 2025. This indicated a 256-day delay to the original Project Completion date of August 9, 2024.

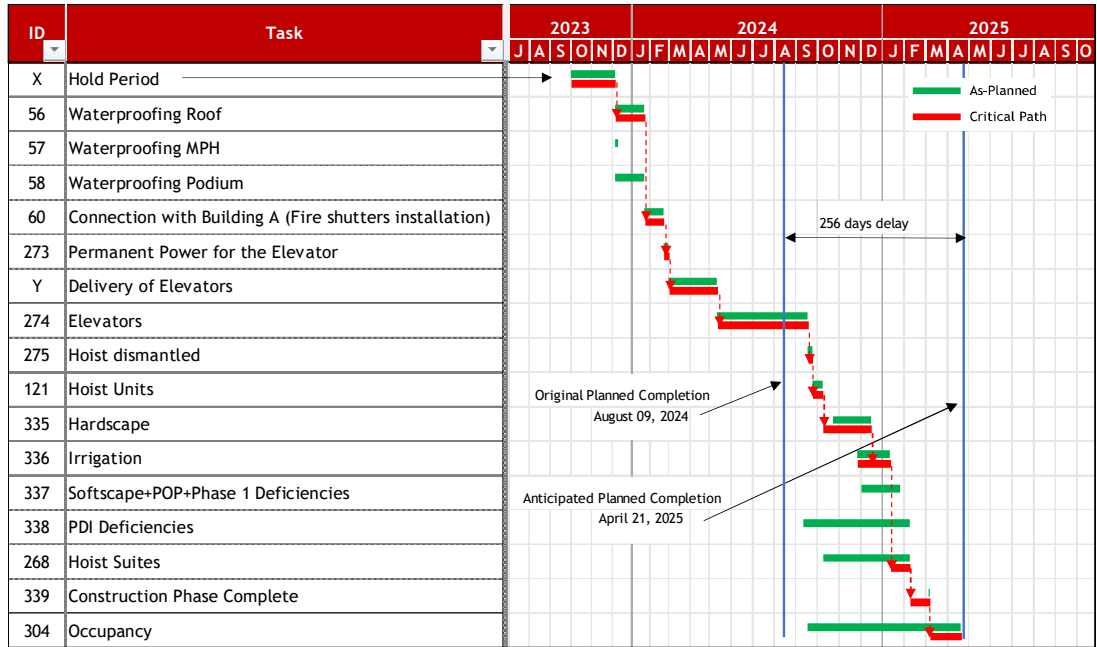
The critical path of the Borrower's Schedule update was driven by the waterproofing works followed by the delivery and installation of the elevators. The critical path then ran through the hardscape and irrigation followed by the occupancy of hoist suites.

The Borrower's Schedule update included a hold period until December 4, 2023, during which no works were scheduled to be performed ("Hold Period"). Based on the analysis of the schedule's critical path, this is evaluated to be a potential delay event causing a critical delay to the progress of the work.

In the event, that the Hold Period is extended beyond December 4, 2023, the Project is expected to incur further critical delays depending on the extended Hold Period.

In summary, the current Borrower's Schedule update as of October 27, 2023, indicates a potential 256 calendar days³ of critical delay to the original Project Completion date of August 9, 2024, due to the Hold Period. This is illustrated in the critical path summary extract below. The 'green bar' below indicates the as-planned works, and the 'red bar' indicates the change in critical path from one activity to another until the anticipated completion date.

³ 256 days of delay represents a cumulative delay to the Project Completion date identified post the introduction of the Hold Period. BDO understands that CB Ross reported, in its Report No. 20, an anticipated Completion date in September 2024, which is a 1-month delay from the Original Project Completion date. Given that the delay estimate was updated from 1 month to 8.5 months by October 27, 2023, it is our view that the project delay of 1 month as of August 31, 2023, was not fully evaluated. Should you require a further analysis into the August 31, 2023 estimated delay of 1 month, a comprehensive delay analysis should be carried out to determine the actual delay incurred to date on the Project and to identify the causes of delay.





7.0 COSTS TO COMPLETE

The remaining costs/budget as of August 31, 2023, amount to \$47.69 million.

(000's)		Initial Budget	Current Budget	Actual Costs	Remaining Budget
Section	Description				
		\$	\$	\$	\$
A	Land	17,050	17,342	17,287	55
B	Planning & Preconstruction	12,006	12,414	10,718	1,696
C	Administration	98	210	206	4
D	Sales / Marketing / Commissions	5,309	5,238	2,712	2,526
E	Finance	1,842	2,580	2,307	273
F	Contingency	892	380	-	380
G	Development Interest	7,115	9,970	3,804	6,166
H	Interest On Purchasers Deposits	-	762	-	762
I	Occupancy Costs	402	286	-	286
J	Construction	67,519	70,860	32,132	38,729
K	Revenue	(1,844)	(2,033)	-	(2,033)
L	Taxes	(0)	-	1,151	(1,151)
	Total Project Costs	110,388	118,009	70,316	47,694

The current construction costs as of August 31, 2023 stand at \$66.45 million (i.e., 94% of the total current construction (Section J) budget) of \$70.86 million. The Hard Costs Contingency remains at \$1.99 million, amounting to \$68.44 million (\$66.45 plus \$1.99) of the \$70.86 million. The remaining construction budget as of August 31, 2023 stands at \$32.13 million, inclusive of the Excluded Costs of \$1.36 million. A detailed break-up of the total construction cost is tabulated below:

(000's)		Current Budget	Actual Costs to Date	Remaining Costs /Budget
Description		\$	\$	\$
DIVISION 1 - SITE OVERHEAD		4,077	2,161	1,917
DIVISION 2 - SITE WORK		8,233	5,249	2,984
DIVISION 3 CONCRETE & FORMWORK		20,654	17,701	2,953
DIVISION 4 MASONRY		500	141	359
DIVISION 5 METALS		1,008	103	905
DIVISION 6 CARPENTRY		2,242	-	2,242
DIVISION 7 THERMAL & MOISTURE PROTECTION		2,410	585	1,825
DIVISION 8 DOORS & WINDOWS		3,956	626	3,330
DIVISION 9 FINISHES		7,015	318	6,697
DIVISION 10 SPECIALTIES		163	13	151
DIVISION 11 EQUIPMENT		904	62	842
DIVISION 12 FURNISHINGS		193	-	193
DIVISION 13 SPECIAL CONSTRUCTION		25	-	25
DIVISION 14 ELEVATORS		602	215	387
DIVISION 15 MECHANICAL		10,775	1,205	9,570
DIVISION 16 ELECTRICAL		3,690	1,266	2,424
DIVISION 17 OTHER		-	1,361	(1,361)
		66,449	31,005	35,444
CONTINGENCY		1,996	-	1,996
Total Construction Cost		68,445	31,005	37,440



The estimation of the costs to complete has been calculated, by taking into account the total construction cost of \$68.44 million, and the key elements of the Project (actual construction costs to date, remaining construction costs, current status of the project and anticipated additional expenses)

In order to estimate a realistic cost to complete, we have reviewed the market conditions and inflation rates to determine a price escalation factor for key construction materials.

Inflation and Market Factors

The COVID-19 pandemic has caused significant disruptions to the construction industry in Canada due to backlogs in supply, labour shortages and volatility in costs. This has resulted in significant increases in construction costs and, in some cases, disruptions to construction projects.

Economic uncertainties following the COVID-19 pandemic left many businesses unable to anticipate the full impact the Pandemic would have on their operations and, thus, faced costs well above their budgeted costs.

We have determined the price escalation factors for the key construction materials based on the current market prices and calculated the average monthly escalation factors to project the price escalation factors into the future. The price escalation factors for the key construction materials are shown in **Appendix 'F'**.

Considering the current status of the project, the costs to complete were estimated based on two scenarios:

1. Scenario 1 - Estimate costs to complete considering the current project delays (256 days) and applying the current market rate to the uncommitted costs. This scenario assumes the Hold Period of 1.5 months.
2. Scenario 2 - Estimate costs to complete considering anticipated project delays (386 days) and applying the projected price escalation factor to both committed and uncommitted costs. This scenario assumes the Hold Period would be further extended by 4.5 months.

Scenario 1 - Current Project Delays and Other Associated Costs

Site Overhead Costs

As explained in the above section, the Project is critically delayed by 256 calendar days. The initial construction budget was estimated to include overhead, and site services costs up to the



originally planned completion date (i.e., August 9, 2024). As a result of these critical delays, the Project will incur additional costs related to overhead and site services up to the impacted completion date (i.e., April 21, 2025).

The Project's construction budget included an estimated \$4,077,363 for Site Overhead costs at a daily planned burn rate of \$3,103. As a result of the above-identified critical delays, the project will incur an additional \$794,372 (256 days of delay x \$3,103 daily burn rate).

Site Work Costs

Similar to the site overhead costs, the Project's construction budget included an estimated \$150,000 for the site dewatering services at a daily planned burn rate of \$114. As a result of the above-identified critical delays, the project will incur an additional \$29,224 (256 days of delay x \$114 daily burn rate).

Uncommitted Costs

The Project's initial construction category budget included an estimate of \$18.89 million for the uncommitted expenses. The uncommitted expenses are the estimated costs/allowances within the budget and are updated as the Company enters into a contract/agreement with the relevant trades during the Project.

A review of the actual costs as of August 31, 2023, indicated the Company has entered into a fixed price contract with multiple trades for the services that include supply and installation, and issued a purchase order for the supply-only services resulting in a decrease of the total uncommitted costs. The estimate in the budget corresponding to the contract value of each trade would be referred to as "Committed Costs". For any costs that are to be incurred but not yet committed are discussed next.



The uncommitted costs as of August 31, 2023, amount to \$6.78 million and a summary of total construction costs is tabulated below:

<i>(000's)</i>		
Description	Construction	
	Costs	% of total
	\$	
Contracts	45,338	70.3%
Change Orders	1,228	1.9%
Purchase Orders	9,699	15.0%
Unit Rates (Fixes)	1,493	2.3%
Uncommitted	6,775	10.5%
Total Current Construction Cost (Excl. Overheads & Contingency)	64,532	100%
Division 1 - Site Overhead (balance)	1,917	
Subtotal	66,449	
Contingency	1,996	
Subtotal	68,445	

The current construction category budget included an allowance/estimate (Uncommitted Costs) for the following items/categories:

<i>(000's)</i>	
Description	Current Estimate in the Construction Budget
	\$
Concrete Curbs & Sidewalks	750
Finish Carpentry	1,306
Kitchen Cabinets	936
Shower Doors	265
Appliances	817
Furnishings	193
Total Uncommitted Costs	4,267

To account for a more realistic cost to complete for the above categories, we applied the current market price indices to the above uncommitted cost categories. The price summaries below provide information on key input costs including concrete curbs, carpentry, kitchen cabinets, shower doors, appliances and furnishings, and their allowance/estimate in the total construction costs/budget were adjusted as shown in the table below:



<i>(000's)</i>				
Description	Current Estimate in the Construction Budget	Costs to Complete after Adjustments	Variance	% of Price Escalation
	\$	\$	\$	
Concrete Curbs & Sidewalks	750	1,062	312	41.6%
Finish Carpentry	1,306	2,795	1,489	114.0%
Kitchen Cabinets	936	1,042	106	11.3%
Shower Doors	265	401	137	51.7%
Appliances	817	1,036	219	26.8%
Furnishings	193	206	14	7.0%
Total Uncommitted Costs	4,267	6,542	2,276	53.3%

Interest Costs

The total loan amount for the Project is \$83.611 million, of which the Company has drawn \$34.60 million as of August 31, 2023. Due to the delays identified above, we calculate the additional interest costs to be incurred on the Project as \$1.74 million. To arrive at this, we utilized the annual interest rate of 9.20% and applied to the balance loan amount to be withdrawn based on the Project's updated Cash Flow.

Summary of findings (Scenario 1)

As a result of the current project delays and its associated costs and current market rates, the remaining cost/budget to complete the balance of construction works is expected to increase by \$4.84 million, from \$47.69 million to \$52.54 million. Therefore, the Project Budget is estimated to be \$122.85 million (\$70.31 million of Actuals Costs to Date plus \$52.54 of Estimated Costs to Complete). The increased costs are summarized in the table below:

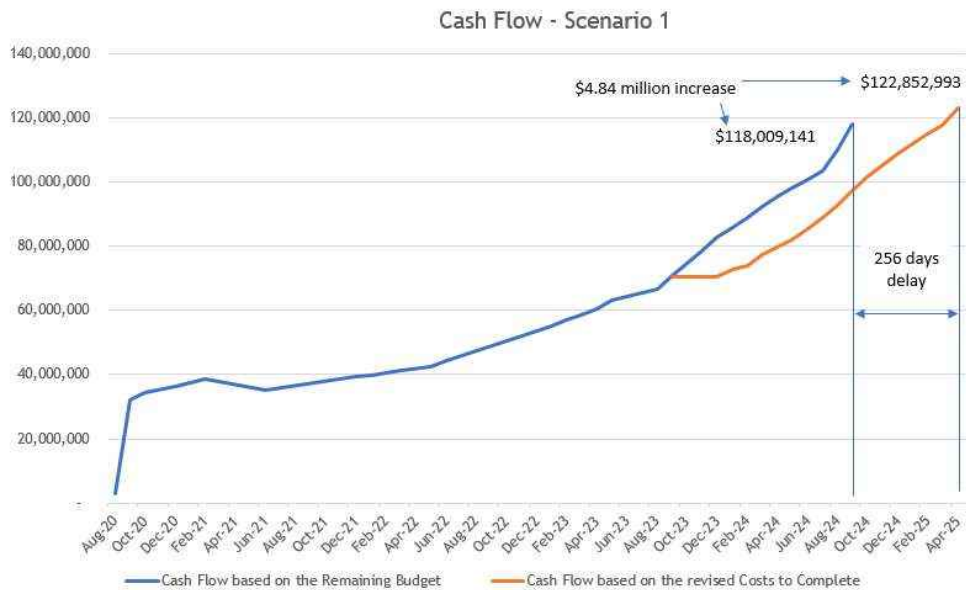
<i>(000's)</i>						
Section	Description	Current Budget	Actual Costs	Remaining Budget	Estimated Costs to Complete	Variance
		\$	\$	\$	\$	\$
A	Land	17,342	17,287	55	55	
B	Planning & Preconstruction	12,414	10,718	1,696	1,696	
C	Administration	210	206	4	4	
D	Sales / Marketing / Commissions	5,238	2,712	2,526	2,526	
E	Finance	2,580	2,307	273	273	
F	Contingency	380	-	380	380	
G	Development Interest	9,970	3,804	6,166	7,911	1,745
H	Interest On Purchasers Deposits	762	-	762	762	
I	Occupancy Costs	286	-	286	286	
J	Construction	70,860	32,132	38,729	41,828	3,099
K	Revenue	(2,033)	-	(2,033)	(2,033)	
L	Taxes	-	1,151	(1,151)	(1,151)	
	Total Project Costs	118,009	70,316	47,694	52,537	4,844



Cash Flow Analysis

As of August 31, 2023, the cash flow based on the current Project budget of \$118.0 million was projected until September 2024. The Project’s cash flow is updated to reflect the above identified delays and associated cost increases aligning the schedule activities with the Project progress.

As a result of the anticipated 256 days of delay to the Project Completion, the Project’s cash flow is expected to extend until April 2025. Further, the total Project Budget is increased by \$4.84 million to \$122.85 million to account for the increases in uncommitted costs and interest. This is shown in the graph below:



Contingency Reserve

The contingency funds are set aside to account for the uncertain risks and unexpected events (risk register) such as floods, market fluctuations, political changes, and scope and design changes that may arise during the project.

The risks are identified during the cost-planning stage of the project and are evaluated and assigned a cost based on their probability of occurrence and the severity of their impact on the project. The contingency funds are tracked and monitored at regular intervals.

The Project’s initial budget included a contingency reserve of \$3.58 million (\$0.89 million for the soft costs and \$2.69 million or the hard costs).



In the event of any cost overrun during the Project, the variance would be deducted from the contingency to maintain the original budget. We understand the hard costs contingency fund was maintained to remain at +/- 5% of the cost to complete.

As of August 31, 2023, the total contingency reserve balance remains at \$2.37 million (\$0.38 million for the soft costs and \$1.99 million for the hard costs). Based on the above analysis, we estimate the current contingency amount should be increased by \$4.84 million to \$7.22 million resulting from the project delays and increase in the construction and interest costs. This is summarized in the table below:

<i>(000's)</i>			
Description	Contingency as at August 31, 2023	Contingency based on Estimated Cost to Complete	Variance
	\$	\$	\$
Soft Costs	380	2,124	1,745
Hard Costs	1,996	5,095	3,099
Total Contingency	2,376	7,220	4,844

Scenario 2 - Anticipated Project Delays and Other Associated Costs

In this scenario, a similar analysis, as explained above, was performed considering the hold period of up to April 26, 2024, a 6-month hold period from October 27, 2023, applying market price escalation factor to both committed and uncommitted costs.

Critical Path Analysis

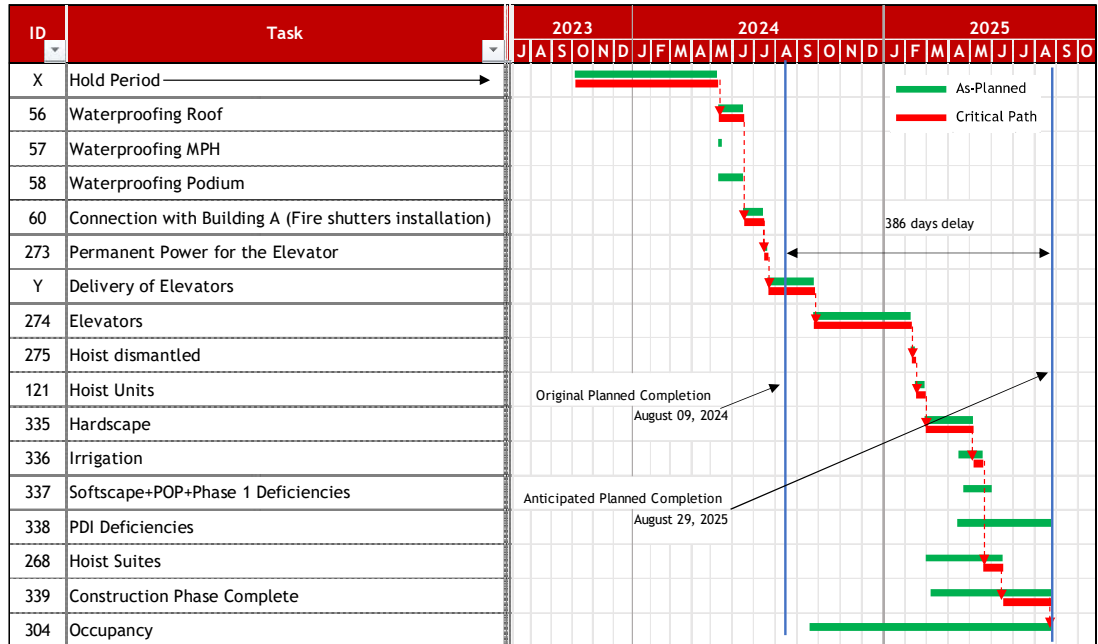
To ascertain the potential delay to the Project Completion date in Scenario 2, we extended the Hold Period to April 26, 2024, to the Company's schedule update dated October 27, 2023. The extension of the Hold Period resulted in 386 days of delay, extending the original Project Completion date from August 9, 2024, to August 29, 2025.

The critical path of the schedule update was driven by the waterproofing works followed by the delivery and installation of the elevators. The critical path then ran through the hardscape and irrigation works followed by the occupancy of hoist suites.

In the event that the Hold Period is extended beyond April 26, 2024, the Project is expected to incur further critical path delays depending on the extent of the Hold Period.



This is illustrated in the critical path summary extract below. The ‘green bar’ below indicates the as-planned works, and the ‘red bar’ indicates the change in critical path from one activity to another until the anticipated completion date.



Site Overhead Costs

As explained in the section above, the extension of the Hold Period up to April 26, 2024, would result in extending the anticipated Project Completion date to August 29, 2025, a 386-calendar day delay to Completion. The initial construction budget was estimated to include overhead, and site services costs up to the originally planned completion date (i.e. August 9, 2024). As a result of these critical delays, the Project will incur additional costs related to overhead and site services up to the impacted completion date (i.e. August 29, 2025).

The Project’s construction budget included an estimated \$4.08 million for Site Overhead costs at a daily planned burn rate of \$3,103. As a result of the above-identified critical delays, the Project will incur an additional \$1.20 million (386 days of delay x \$3,103 daily burn rate).

Site Work Costs

Similar to the site overhead costs, the Project’s construction budget included an estimated \$150,000 for the site dewatering services at a daily planned burn rate of \$114. As a result of the



above-identified critical delays, the project will incur an additional \$44,064 (386 days of delay x \$114 daily burn rate).

Committed and Uncommitted Costs

To account for a more realistic cost to complete for the above categories, we applied the current market price indices to both committed and uncommitted cost categories. We have determined the price escalation factors for the key construction materials based on the current market prices and calculated the average monthly escalation factors to project the price escalation factors for the Hold Period. Included in **Appendix 'F'** is a table providing information on the escalation factors applied to the key input cost categories.

In order to calculate the cost to complete for the above identified categories, we applied the relevant price escalation factors shown above to each category.

Based on the above analysis, we calculate the additional costs due to the project delays and the increase in market price to be at \$9.54 million. A summary of price increase to each category is shown in the table below.

(000's)						
Description	Current Budget	Actual Costs to Date	Remaining Costs/Budget	Cost to Complete	Variance	Category
	\$	\$	\$	\$	\$	
DIVISION 1 - SITE OVERHEAD	4,077	2,161	1,917	3,114	1,198	Overhead Costs
DIVISION 2 - SITE WORK	8,233	5,249	2,984	3,390	405	Site Work Costs
DIVISION 3 CONCRETE & FORMWORK	20,654	17,701	2,953	3,264	311	Price Escalation
DIVISION 4 MASONRY	500	141	359	374	15	Price Escalation
DIVISION 5 METALS	1,008	103	905	1,194	289	Price Escalation
DIVISION 6 CARPENTRY	2,242	-	2,242	4,077	1,835	Price Escalation
DIVISION 7 THERMAL & MOISTURE PROTECTION	2,410	585	1,825	2,592	766	Price Escalation
DIVISION 8 DOORS & WINDOWS	3,956	626	3,330	4,652	1,322	Price Escalation
DIVISION 9 FINISHES	7,015	318	6,697	8,099	1,402	Price Escalation
DIVISION 10 SPECIALTIES	163	13	151	151	-	
DIVISION 11 EQUIPMENT	904	62	842	1,103	261	Price Escalation
DIVISION 12 FURNISHINGS	193	-	193	209	16	Price Escalation
DIVISION 13 SPECIAL CONSTRUCTION	25	-	25	25	-	
DIVISION 14 ELEVATORS	602	215	387	462	75	Price Escalation
DIVISION 15 MECHANICAL	10,775	1,205	9,570	10,272	701	Price Escalation
DIVISION 16 ELECTRICAL	3,690	1,266	2,424	3,363	939	Price Escalation
DIVISION 17 OTHER	-	1,361	(1,361)	(1,361)		
	66,449	31,005	35,444	44,980	9,536	
CONTINGENCY	1,996	-	1,996	1,996	-	
Total Construction Cost	68,445	31,005	37,440	46,976	9,536	

Interest Costs

The total loan amount for the Project is \$83.61 million, of which the Company has withdrawn \$34.60 million as of August 31, 2023. Due to the delays identified above, we calculate the additional interest costs to be incurred on the Project as \$3.14 million. To arrive at this, we utilized the annual interest rate of 9.20% and applied to the balance loan amount to be withdrawn based on the Project's updated Cash Flow.



Summary of findings (Scenario 2)

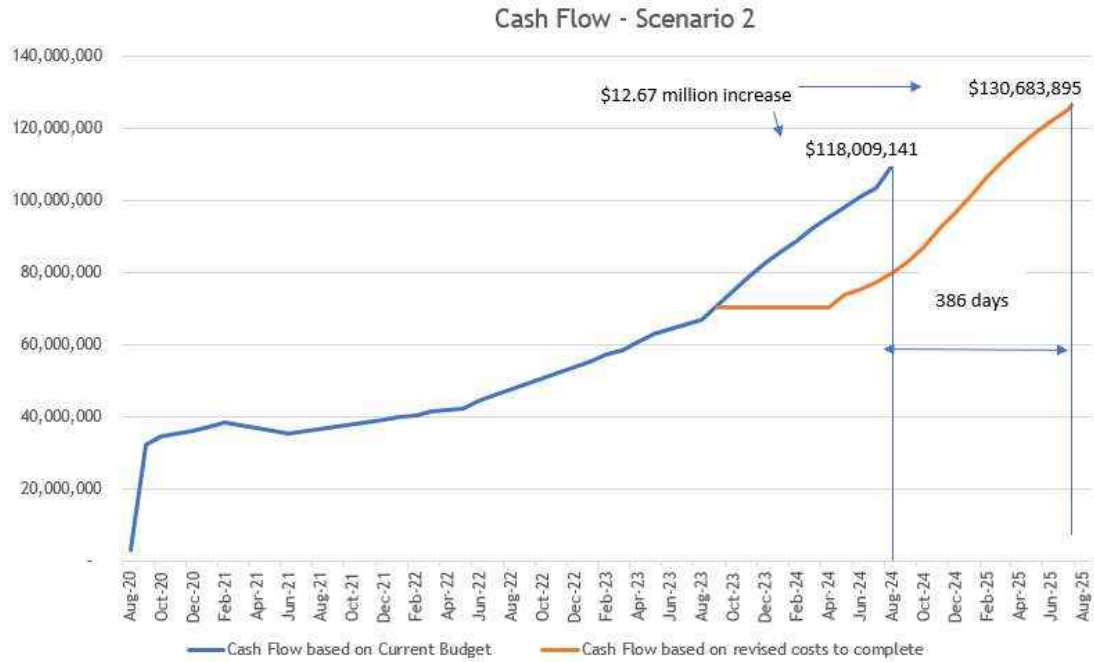
As a result of the current project delays and its associated costs and current market rates, the remaining cost/budget n to complete the balance of construction works is expected to increase by \$12.67 million, from \$47.69 million to \$60.37 million. Therefore, the Project Budget is estimated to be \$130.68 million (\$70.31 million of Actuals Costs to Date plus \$60.37 of Estimated Costs to Complete). The increased costs are summarized in the table below:

<i>(000's)</i>						
Section	Description	Current Budget	Actual Costs	Remaining Budget	Estimated Costs to Complete	Variance
		\$	\$	\$	\$	\$
A	Land	17,342	17,287	55	55	
B	Planning & Preconstruction	12,414	10,718	1,696	1,696	
C	Administration	210	206	4	4	
D	Sales / Marketing / Commissions	5,238	2,712	2,526	2,526	
E	Finance	2,580	2,307	273	273	
F	Contingency	380	-	380	380	
G	Development Interest	9,970	3,804	6,166	9,305	3,139
H	Interest On Purchasers Deposits	762	-	762	762	
I	Occupancy Costs	286	-	286	286	
J	Construction	70,860	32,132	38,729	48,264	9,536
K	Revenue	(2,033)	-	(2,033)	(2,033)	
L	Taxes	-	1,151	(1,151)	(1,151)	
	Total Project Costs	118,009	70,316	47,694	60,368	12,675

Cash Flow Analysis

As of August 31, 2023, the cash flow based on the current Project budget of \$118.00 million was projected until September 2024. The Project's cash flow is updated to reflect the above identified delays and associated cost increases aligning the schedule activities with the Project progress.

As a result of the anticipated 386 days of delay to the Project Completion, the Project's cash flow is expected to extend until August 2025. Further, the total Project Budget is increased by \$12.67 million to \$130.68 million to account for the increases in uncommitted and interest costs. This is shown in the graph below:



Contingency Reserve

The contingency funds are set aside to account for the uncertain risks and unexpected events (risk register) such as floods, market fluctuations, political changes, and scope and design changes that may arise during the project.

The risks are identified during the cost-planning stage of the project and are evaluated and assigned a cost based on their probability of occurrence and the severity of their impact on the project. The contingency funds are tracked and monitored at regular intervals.

The Project’s initial budget included a contingency reserve of \$3,58 million (\$0.89 million for the soft costs and \$2.69 million or the hard costs).

In the event of any cost overrun during the project, the variance would be deducted from the contingency to maintain the original budget. We understand the hard costs contingency fund was maintained to remain at +/- 5% of the cost to complete.

As of August 31, 2023, the total contingency remains at \$2,37 million (\$0.38 million for the soft costs and \$1.99 million for the hard costs). Based on the above analysis, we estimate the current contingency amount should be increased by \$12.67 million to \$15.05 million resulting from the project delays and increase in the construction and interest costs. This is summarized in the table below:



(000's)

Description	Contingency as at August 31, 2023	Contingency based on Estimated Cost to Complete	Variance
	\$	\$	\$
Soft Costs	380	3,519	3,139
Hard Costs	1,996	11,532	9,536
Total Contingency	2,376	15,051	12,675



8.0 TRADE PAYABLE REVIEW

Pursuant to our mandate, BDO's review of trade payables included:

- i. A detailed review of the Company's May Shortfall (defined herein) relative to Project funding and vendor payments to CBRR 20, through:
 - Comparison of the Adjusted Shortfall Summary sheet (illustrated in the chart below) against the detailed Vendor Tracking; and,
 - Verification of the invoice listing against the Vendor Statements provided to BDO.
- ii. A detailed review of the Company's reported AP as at September 30, 2023 taking into consideration costs incurred since CBRR 20, through:
 - Reconciling payables in the Company's AP sub-ledger and trial balance as at September 30, 2023 with the Vendor Tracking and Vendor Statements as well as the submission of invoices to CBRR 21 and extended to September 30, 2023; and,
 - Reconciliation of the seven (7) vendor Lien Claims registered against the Project.

Project Funding (exclusive of holdback deductions and HST) (the "**Cost Submissions**") as at CBRR 20 total \$63.03 million with Total Charges of \$64.62 million (inclusive of holdback deductions and HST), Project payments total \$54.87 million resulting in reported outstanding obligations of approximately \$9.75 million relative to the Cost Submissions as at CBRR 20 (the "**May Shortfall**"). BDO's review and sampling of Project payments is included in **Appendix 'D'**.

The May Shortfall is inclusive of vendor accounts with credit balances (the "**Credit Balances**"), which resulted from payments to those vendors in excess of their respective invoices submitted for Project Funding.

Excluding the Credit Balances results in an adjusted shortfall of \$11.0 million as at CBRR 20 (referred to herein as the "**Adjusted Shortfall**"). The Chart below illustrates the May Shortfall and Adjusted Shortfall:



(000's)		Project Funding to May 31, 2023			Total	Total	May	Credit	Adjusted
Section	Category	(Note A)	Holdback	HST	Charges	Payments	Shortfall	Balances	Shortfall
		\$	\$	\$	\$	\$	\$	\$	\$
A	Land	17,287	-	-	17,287	(17,287)	-	-	-
B	Planning & Preconstruction	12,252	-	197	12,449	(10,695)	1,754	1	1,756
C	Administration	206	-	30	235	(206)	29	9	39
D	Sales/Marketing/Commission	2,712	-	279	2,991	(1,535)	1,456	2	1,458
E	Finance	1,534	-	18	1,552	(1,770)	(218)	218	-
F	Contingency	-	-	-	-	-	-	-	-
G	Development interest	3,036	-	-	3,036	(3,036)	-	-	-
H	Interest on purchaser deposits	-	-	-	-	-	-	-	-
I	Occupancy costs	-	-	-	-	-	-	-	-
J	Construction	25,456	(1,847)	2,918	26,527	(19,796)	6,731	1,025	7,756
K	Revenue	-	-	-	-	-	-	-	-
L	Taxes	547	-	-	547	(547)	-	-	-
Total		63,029	(1,847)	3,441	64,624	(54,871)	9,752	1,257	11,009

- A. Project Funding includes proceeds from MCAP Funding, the Land/Equity contribution and \$2.6 million funded by Westmount Guarantee Services Inc. ("Westmount") in relation to Agent commissions included in Section 'D'.

The majority of the Adjusted Shortfall relates to the following three (3) items:

1. Section 'B' - Planning and Preconstruction: the outstanding \$1.0 million cash-in-lieu parkland dedication payment ("Parkland") and \$560,000 Education Levy assessed by the City of Toronto (the "City"). The Company is disputing the Parkland component;
2. Section 'D' - Sales/Marketing/Commission: Outstanding commissions payable on sales of the Project Units to date, a portion of which Management advises relates to commission invoices that have not yet been rendered;
3. Section 'J' - Construction: Plycon Forming Ltd. ("Plycon") represents \$6.17 million of the Adjusted Shortfall. Plycon has since performed additional work and submitted further invoices totaling \$2.1 million and has registered a lien against the Project in the amount of \$9.9 million.

Further details of our review of Section 'B', 'C', 'D' and 'J' Adjusted Shortfall is included in **Appendix 'G'**.

The Credit Balances relate primarily to invoices / costs incurred which were either i) not submitted to CB Ross (as an oversight) or ii) were submitted to CB Ross but were not included in a funding request due to lack of supporting documentation. It would be time consuming to perform a vendor-by-vendor reconciliation to verify which invoices were not included in Cost Submissions as at CBRR 20, given the volume of invoices to reconcile and that the information is now outdated. Excluded Costs are considered in our review of AP as at September 30, 2023.



The Credit Balances do not impact the payables balance as the vendors have been paid. Management has confirmed the Adjusted Shortfall reflects previous Cost Submissions requiring funding to satisfy remaining payables balances (i.e. ~ \$11.0 million).

Further, BDO has requested the Company to provide a complete list of approved Change Orders to identify any other potential amounts that are outstanding and/or that would affect the Project Budget. We caution that absent direct contact with the vendors, BDO cannot confirm the extent, if any, of additional Change Orders or Purchase Orders if they are not disclosed.

Summary of Adjusted Shortfall

In relation to the total Project Funding through to May 2023 (i.e. CBRR 20), the Company has made Cost Submissions in the amount of \$63.03 million (with total vendor charges of \$64.62 million (after consideration of Holdback and HST) and payments to vendors totaled \$54.87 million. Based on the results of our review to May 2023, and after consideration of the Credit Balances, the Adjusted Shortfall balance in Project Funding is \$11.0 million. In reference to Project Funding to date, the Adjusted Shortfall balance is split \$9.55 million in respect of MCAP funding and \$1.45 million relates to Westmount funding for Agent commissions.

Accounts Payables as at September 30, 2023

The Company provided an accounts payable listing as at September 30, 2023 (the “**AP Listing**”) totaling \$16.2 million which primarily included trade creditors and commissioned external agents and an in-house agent (collectively the “**Agents**”). A copy of the AP Listing is attached as **Appendix ‘I’**. The chart below provides a summary of the AP balances for the ten (10) largest vendor account balances in comparison to the Vendor Statements received:



(000's)	Aged A/P Listing	Vendor Statements	Variance to Aged A/P Listing
Vendor	\$	\$	\$
Plycon Forming Ltd	8,278	8,278	-
Dolvin Mechanical Contractors Limited	1,966	1,054	912
Lido Wall Systems Inc.	849	849	0
Viola Ready Mix Inc.	558	558	-
Salit Steel	500	500	-
Dircam Electric Limited	398	751	(352)
Classic Tile Contractors Limited	330	Not received	Not received
Primeline Windows and Doors Inc.	303	Not received	Not received
Venice Construction Inc	235	143	91
Automated Fire Protection Systems Inc	207	207	(0)
Total Top 10 vendor balances	13,625	12,342	650
<i>% of total</i>	<i>84.0%</i>	<i>94.4%</i>	
All other vendor balances	2,600	734	
<i>% of total</i>	<i>16.0%</i>	<i>5.6%</i>	
Total vendor balances	16,225	13,075	
<i>% of total</i>	<i>100.0%</i>	<i>100.0%</i>	

BDO received Vendor Statements from 8 of the 10 largest vendor accounts representing \$12.34 million or ~94% of the top 10 balances (and 80.1% of the total AP Listing), summarized as follows:

- Five (5) Vendor Statements supported the AP balances without exception, totaling \$10.39 million, in aggregate.
- The Venice Construction Inc. (“**Venice**”) Vendor Statement included outstanding invoices for the billing period ending August 2023. Vandyk’s AP balance included Venice’s September 2023 invoice totaling \$91,000.
- The Dolvin Mechanical Contractors Limited (“**Dolvin**”) and Dircam Electric Ltd. (“**Dircam**”) Vendor Statements differed from the Vandyk AP Listing balance due to ongoing invoice disputes. The Vendor Statements supported that these listed balances were, at a minimum, invoiced. The Dolvin and Dircam accounts are discussed further in our review of Lien Claims.
- Two (2) of the top 10 vendors did not provide Vendor Statements.

There were an additional 76 vendors on the AP Listing with an aggregate balance of \$2.60 million, of which 28 have provided Vendor Statements in support of \$734,000 (4.5% of the AP Listing). Overall, Vendor Statements were received for 84.6% of total balances listed on the AP Listing in support of the reported balances owing by the Company.



BDO compared the AP Listing to the Cost Submissions in CBRR 21 as well as the Vendor Tracking to confirm that the outstanding balances were included on the AP Listing. Further, BDO compared the AP Listing to the Company's trial balance as at September 30, 2023. Based on our review and correspondence with Management primarily relating to disputed invoices, BDO identified adjustments which decreased the AP balance to \$15.93 million, prior to considering accrued amounts not included in AP but reflected in the Adjusted Shortfall (for example Uninvoiced commissioned Agents, Parkland and the Education Levy) which would increase outstanding obligations to a balance of \$18.04 millions. The chart below illustrates the adjustments to the AP balance as at September 30, 2023 and the accrued obligations:

(000's)		Notes
		\$
Aged A/P Listing	16,225	
Additional A/P items:		
Unrecorded Toronto Water invoice	138	1
Pending adj. from Dircam invoice dispute	(108)	2
Pending adj. from Dolvin invoice dispute	(325)	2
	(294)	
Adjusted A/P Balance	15,931	
Additional Obligations:		
Unrecorded sales agent commissions	544	3
Parkland dispute and Education Levy	1,565	4
Adjusted A/P Balance and Pending Obligations	18,040	

1. City of Toronto invoice of \$138,000 that is not included in AP.
2. Adjustment to the Dircam's and Dolvin's disputed invoices which are discussed in further detail in our review of Lien Claims. Adjustment to Dircam and Dolvin AP balances are based on disputes discussed further in our review of Lien Claims.
3. There are \$544,000 in outstanding commissions to Agents which are not classified as accounts payable on the AP Listing as the invoices have not been issued by the Agent.
4. Once the Parkland dispute is resolved, Management has advised it will be paid together with the Education Levy. These amounts will be payable on resolution of the dispute.

Overall, the AP Listing appears to appropriately summarize the outstanding amounts owing to trade vendors and commissioned Agents based on our review of Vendor Statements, with the exception of (i) the missing Toronto Water invoice, and ii) the Dolvin and Dircam disputes, which are discussed further below. For comparative purposes relative to the Adjusted May Shortall, the Company's obligations for commissions not yet invoiced and payments awaiting resolution of

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the Parkland dispute should also be reflected in accrued liabilities and be considered when determining the Company's ongoing funding requirements.



9.0 LIEN CLAIM REVIEW

Based on an Ontario Land Titles search dated October 13, 2023, a copy of which is attached hereto as **Appendix ‘J’**, seven (7) Kings Mill Condo vendors have registered liens on the Project (the “**Lien Claimants**”) totaling \$14.36 million. We are not aware of any other liens registered on the Project since that date.

The chart below illustrates the Lien Amount by vendor (column A) compared to Vandyk’s AP plus Holdback balance (column D) and the resultant variance (column E):

(000's)		Vandyk Balances as at Sept 30, 2023				
Date	Lien Claimant	Lien Amount	AP	Holdback (1)	Total	Variance
Column Ref.		A	B	C	B+C = D	A-D = E
		\$	\$	\$	\$	\$
25-Aug-23	Dircam Electric Limited	743	398	-	398	345
29-Aug-23	Dircam Electric Limited	104		80	80	23
20-Sep-23	Kohn Partnership Architects Inc.	61	55	-	55	7
20-Sep-23	Plycon Forming Ltd.	9,900	8,278	1,210	9,488	412
22-Sep-23	Viola Ready Mix Inc.	558	558	-	558	-
26-Sep-23	Myer Salit Limited	500	500	-	500	0
10-Oct-23	Automated Fire Protection Systems Inc.	240	207	33	240	-
13-Oct-23	Dolvin Mechanical Contractors Limited	2,251	1,966	-	1,966	285
	Total	14,358	11,963	1,324	13,286	1,072
	Total Per Vandyk		16,225	2,241	18,466	
	% of Total		73.7%	59.1%	72.0%	
	Note (1): Holdback Amount per Vendor Tracking, exclusive of HST.					

The Lien Claimants represent approximately \$11.96 million (or 73.7%) of total reported AP and a combined \$13.4 million in AP and reported Holdbacks. The overall variance is approximately \$984,000 relating primarily to Plycon, Dircam and Dolvin, which is outlined in detail in **Appendix ‘K’**.

While not certain as we do not have the schedule in support of their claim, it appears the variance in the Plycon lien claim (the “**Plycon Lien**”) is likely closer to \$90,000 rather than the illustrated \$412,000 believed to be HST on their Holdback and error in Plycon’s original Vendor Statement. The balance of the overall lien variance relates largely to disputed invoices on the Dircam and Dolvin accounts, which may require a formal resolution process to resolve. Our detailed review of the above Lien Claims and Dircam and Dolvin disputes is included in **Appendix ‘K’**.

Management provided a summary of the steps to review and resolve vendor disputes concerning disputes invoices. Details of the invoicing dispute resolution procedures is attached as **Appendix ‘L’**.



Kohn Partnership Architects Inc. (“**Kohn**”) shows a variance of \$7,000. It is not clear if Kohn has a legitimate lien claim and given the relatively low variance versus the reported AP, we have not reviewed this variance further at this time.

Based on the foregoing, with the exception of the disputed invoices which are to be resolved, the Company’s AP and Holdback balances for the Lien Claimants appear within reason and are in support of the Adjusted Shortfall as at May 2023 and the total reported AP as at September 30, 2023.



10.0 OTHER MATTERS

In reconciling the Company's AP sub-ledger to the Trial Balance, a copy of which is attached hereto as **Appendix 'M'**, we identified 36 inter-corporate accounts with a net inter-corporate receivable balance of \$19.0 million. Management advised that the balance relates largely to the land acquisition as well as the inter-corporate funding that occurred primarily in 2023 which gave rise to the May Shortfall. We have not performed any other work in respect of these accounts. Based on the notes in the Company's unaudited financial statements, the inter-corporate loans are receivable from related companies and are net of any loans payable. The loans are non-interest bearing and unsecured. The companies are all related as they are under common control.

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APPENDIX A - ENGAGEMENT LETTER



Tel: 905-524-1008
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BDO Canada Limited
 25 Main Street West Suite 805
 Hamilton, ON L8P 1H1 Canada

September 15, 2023

MCAP Financial Corporation
 400 - 200 King Street West,
 Toronto, ON
 M5H 3T4

Attention: Stephen Jones
Attention: Michael Misener

Dear Sirs:

RE: MCAP FINANCIAL CORPORATION (“MCAP”)
LOAN TO VANDYK-BACKYARD KINGS MILL LIMITED (the “Borrower”)
Project: Kings Mill Condos (the “Project”)
Our Loan No.: 19-6493-T41/91 (the “Loan”)

We understand that you wish to engage BDO Canada Limited (“BDO”) to provide advisory services to you as described herein (the “Services”). It would be our pleasure to provide these Services to you.

The purpose of this letter is to confirm our mutual understanding of the Services that we will perform, set out the terms and conditions of our engagement and to serve as an agreement between us (the “Agreement”). The attached Standard Terms and Conditions form an integral part of this Agreement.

MCAP is acting as agent for the lender(s) associated with the Loan and BDO is being retained by MCAP on behalf of the lender(s) to act on your and their behalf in connection with the above noted Loan. BDO’s fees and expenses shall be borne by the above noted Borrower.

Our Services to You

BDO’s Services, working in conjunction with MCAP’s cost consultant, CB Ross Partners, (“CB Ross”) with respect to this engagement are outlined below in the list of Initial Requirements. Any change to the terms of reference will be in writing from MCAP.

Initial Requirements:

1. Work closely with CB Ross, to conduct a detailed review and report of the Project and the Borrower’s Budget (the “Project Budget”) to include the following:
 - a) Review and confirm adequacy of the current Project Budget.
 - b) Review and confirm adequacy of the current Costs to Date, and Costs to Complete.



- c) Provide accounting of all paid costs, which is to include collection of information evidencing the payments made to date.
- d) Provide accounting of all trade payables, which is to include:
 - i. an accounting of trade payables that were outstanding up to and including the date of the most recent CB Ross report (Report #20 as at May 31, 2023); and
 - ii. an accounting of trade payables that have been incurred since that report.
- e) Confirmation directly from the trades that all other amounts payable, excluding the payables noted in c) above, have been paid and that there are no deferrals, side agreements or any other arrangements that would allow for payments to be otherwise deferred.
- f) Review and confirm adequacy of Borrower's schedule (which schedule is to be acceptable to MCAP) and cash flow projections.
- g) Adequacy of contingency reserve for completion of project.
- h) Recommendations on such other matters as may have become evident during discussions with the Borrower, the cost consultant (and other consultants) involved in the project, or which may have become evident during the course of your review and inquiries.

Prior to any further Progress Advances for Work in Place

- 1. Any further advances by MCAP will be made directly to the trades by either MCAP, legal counsel, or BDO, with satisfactory evidence of receipt of funds and confirmation that no invoices remain unpaid and no deferrals are in place to be provided by each trade.

Any service not specifically described above is outside the scope of this Agreement.



Reporting

We understand that time is of the essence, and subject to the Borrower's co-operation in providing the necessary information, BDO and CB Ross will provide a report outlining their findings on the "Initial Requirements" within 4 weeks of the date from which all requested information is received by BDO, with weekly status updates as available to MCAP.

Management's Responsibilities

You are responsible for the accuracy and completeness of any of the facts, working assumptions or other information that you provide to us in the course of us performing our work. We will not independently verify such things.

Fees

Our professional fees will be based on our billing rates which depend on the means by which and by whom our Services are provided. Our billing rates may be subject to change from time to time at our discretion with or without notice to you.

The hourly rates to be charged by BDO shall be:

Title	Rate
Partner	\$545.00
Senior Manager	\$475.00
Manager	\$325.00
Associate	\$275.00

Our accounts are due when rendered and invoiced amounts are deemed to be earned when paid. BDO may suspend the performance of Services in the event that you fail to pay an invoice when it is due. Fees that are not paid within 30 days of an invoice or by a specified payment deadline will be considered delinquent. Interest may be charged at the rate of 12% per annum on all accounts outstanding for more than 30 days.

Standard Terms and Conditions

Our Standard Terms and Conditions are attached as Appendix 1. You should ensure that you read and understand them.

Acknowledgement and Agreement

Provided that this Agreement is satisfactory to you, please sign and return the attached copy of the Agreement to indicate your acceptance of it. If you have any questions concerning the Agreement, please contact us before signing it.



We are proud to serve you and we appreciate your confidence in our work.

Yours very truly,

BDO Canada Limited

The required work, facts and assumptions are appropriately stated above. This Agreement is accepted by:

MCAP Financial Corporation

Bruno Iacovetta
Signature

September 15, 2023
Date

Bruno Iacovetta
Name (please print)

Managing Director
Position

Please carefully review this Agreement, which includes the attached Standard Terms and Conditions, prior to signing it. A complete copy of the signed engagement letter should be returned to us.



Appendix 1 - Standard Terms and Conditions

1 Overview and Interpretation

1.1 This Agreement sets forth the entire agreement between the parties in relation to Services and it supersedes all prior agreements, negotiations or understandings, whether oral or written, with respect to Services, including without limitation any non-disclosure agreements entered into in advance of this Agreement. This Agreement applies to Services whenever performed (including before the date of this Agreement). To the extent that any of the provisions of the accompanying letter conflict with these Standard Terms and Conditions, these Standard Terms and Conditions shall prevail. This Agreement may not be changed, modified or waived in whole or part except by an instrument in writing signed by both parties.

1.2 In this Agreement, the following words and expressions have the meanings set out below:

This Agreement – these Standard Terms and Conditions, the letter to which they are attached, any supporting schedules or other appendices to the letter, and any Summary of Services letters issued in future years

Services – the services provided or to be provided under this Agreement, and any other services which we agree to provide to you subsequent to the date of this Agreement that are not covered by a separate engagement letter

We, us, our, BDO – refer to BDO Canada Limited, a corporation organized under the federal laws of Canada

You, your – the party or parties contracting with BDO under this Agreement. You and your does not include BDO, its affiliates or BDO Member Firms

BDO Member Firm or Firms – any firm or firms that form part of the international network of independent firms that are members of BDO International Limited

Confidential Information - all non-public proprietary or confidential information and Personal Information, including Client Documents

Personal Information – personal information that is or could be attributed to identifiable individuals

Client Documents – information (including internal financial information and internal records and reports) provided to us by you or on your behalf in connection with the performance of the Services

2 BDO Network and Sole Recourse

2.1 BDO is an affiliate of BDO Canada LLP, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international network of independent member firms (i.e. BDO Member Firms), each of which is a separate legal entity.

We may use other BDO Member Firms or subcontractors to provide Services; however, we remain solely responsible for Services. You agree not to bring any claim or action against another BDO Member Firm (or their partners, members, directors, employees or subcontractors) or our subcontractors in respect of any liability relating to the provision of Services.

2.2 You agree that any of our affiliates, subcontractors, and other BDO Member Firms and any subcontractors thereof whom we directly or indirectly involve in providing Services have the right to rely on and enforce Section 2.2 above, as well as all liability protections contained herein, as if they were a party to this Agreement. For greater certainty, you agree that other BDO Member Firms that are subcontractors may enforce any limitations or exclusions of liability available to us under this Agreement.

3 Respective Responsibilities

3.1 We will use reasonable efforts to complete, within any agreed-upon time frame, the performance of Services. You shall be responsible for your personnel's compliance with your obligations under this Agreement. We will not be responsible for any delays or other consequences arising from you not fulfilling your obligations.



4 Working Papers and Deliverables

4.1 **Ownership** – The working papers prepared pursuant to this Agreement (i.e. BDO’s internal documentation to substantiate the Services) are the property of BDO. Such working papers constitute confidential and proprietary information, and will be retained by BDO in accordance with our policies and procedures and all applicable laws.

Oral advice and draft deliverables – You should not rely upon any draft deliverables or oral advice provided by us. Should you wish to rely upon something we have said to you, please let us know and, if possible, we will provide the information that you require in writing.

4.2 **Reliance by Third Parties** – Our Services will not be planned or conducted in contemplation of or for the purpose of reliance by any party other than you, and are intended for the benefit of only you. Items of possible interest to a third party will not be addressed and matters may exist that would be assessed differently by a third party, possibly in connection with a specific transaction. The receipt by any third parties of any advice, opinions, reports or other work product is not intended to create any duty of care, professional relationship or any present or future liability between such third parties and us. For greater certainty, we expressly disclaim any liability of any nature or kind resulting from the disclosure to or unauthorized reliance by any third party on our advice, opinions, reports or other work product.

5 Confidentiality

5.1 We will use Confidential Information provided by you only in relation to the Services or for internal and administrative purposes. You agree, however, that we may use such Confidential Information for predictive analytics to provide you with key performance indicators and other analysis and insights. We will not disclose any Confidential Information, except where required by law, regulation or professional obligation. You agree, however, that we may disclose Confidential Information to other BDO Member Firms or other subcontractors assisting us in providing Services, provided that such parties are bound by reasonable confidentiality obligations no less stringent than in this Agreement.

6 Analytics

6.1 You agree that we may use anonymized and aggregated usage metrics, metadata or other tag identifiers, and Confidential Information that will not include any personally identifiable information, related to your use of BDO products and/or services to develop, modify and improve tools, services and offerings and for data analytics and other insight generation. Information developed in connection with these purposes may be used or disclosed to current or prospective clients as part of service offerings, however we will not use or disclose your name or any Confidential Information in a way that would permit you to be identified.

7 Privacy and Consent for Use of Personal Information

7.1 In order to provide our Services, we may be required to access and collect Personal Information of individuals that is in your custody. You agree that we may collect, use, store, transfer, disclose and otherwise process Personal Information as required for the purpose of providing the Services. Personal Information may be processed in various jurisdictions in which we or applicable BDO Member Firms and subcontractors providing Services operate and as such Personal Information may be subject to the laws of such jurisdictions. Personal Information will at all times be collected, used, stored, transferred, disclosed or processed in accordance with applicable laws and professional regulations and we will require any service providers and BDO Members that process Personal Information on our behalf to adhere to such requirements. Any collection, use, storage, transfer or disclosure of Personal Information is subject to BDO’s Privacy Statement available at <https://www.bdo.ca/en-ca/legal-privacy/legal/privacy-policy/>.

7.2 You represent and warrant that:

- and
- (a) you have the authority to provide the Personal Information to us in connection with the performance of our Services,
 - (b) the Personal Information provided to us has been provided in accordance with applicable law, and you have obtained all required consents of the individuals to whom such Personal Information relates in order to permit BDO to collect, use and disclose the Personal Information in the course of providing the Services.



8 Professional and Regulatory Oversight and Legal Processes

8.1 As required by legal, regulatory, or professional authorities (both in Canada and abroad) and by BDO policy, our client files must periodically be reviewed by practice inspectors to ensure that we are adhering to professional and BDO standards. It is understood that by entering into this Agreement, you provide your consent to us providing our files relating to your engagement to the practice inspectors for the sole purpose of their inspection.

Certain law enforcement, regulatory and other governmental bodies may also have the right under law or regulation to conduct investigations of you, including the Services provided by us. To the extent practicable and permitted by law or regulation, we will advise you of any such document request or production order we receive in connection with any such investigation prior to providing any documents in response to such request or order.

8.2 We are sometimes required by law, regulation, subpoena or other legal process, or upon your request, to produce documents or personnel as witnesses in connection with legal or regulatory proceedings. Where BDO is not a party to such proceedings, you shall reimburse us at our current standard billing rates for professional time and expenses, including without limitation, reasonable legal fees, expenses and taxes incurred in responding to such compelled assistance or request by you.

9 Electronic Communications

9.1 Both parties recognize and accept the security risks associated with email communications, including but not limited to the lack of security, unreliability of delivery and possible loss of confidentiality and privilege. Unless you request in writing that we do not communicate by internet email, you assume all responsibility and liability in respect of risk associated with its use.

10 Limitation of Liability

10.1 In any dispute, action, claim, demand for losses or damages arising out of the Services performed by BDO pursuant to this Agreement, BDO's liability will be several, and not joint and several, and BDO shall only be liable for its proportionate share of the total liability based on degree of fault as determined by a court of competent jurisdiction or by an independent arbitrator, notwithstanding the provisions of any statute or rule of common law which create, or purport to create, joint and several liability. In no event shall BDO be liable for indirect, consequential, special, incidental, aggravated, punitive damages, or exemplary damages, losses or expenses, or for any loss of revenues or profits, loss of opportunity, loss of data, or other commercial or economic loss or failure to realize expected savings, including without limitation expected tax savings, whether or not the likelihood of such loss or damage was contemplated.

10.2 Intentionally deleted

The limitations of liability in this section apply whether or not the Liabilities asserted by you against BDO are incurred by you directly or as a result of a claim or demand against you by a third party.

10.3 No exclusion or limitation on the liability of other responsible persons imposed or agreed at any time shall affect any assessment of our proportionate liability hereunder, nor shall settlement of or difficulty enforcing any claim, or the death, dissolution or insolvency of any such other responsible persons or their ceasing to be liable for the loss or damage or any portion thereof, affect any such assessment.

You agree claims or actions relating to the delivery of Services shall be brought against us alone, and not against any individual. Where our individuals are described as partners, they are acting as one of our members.

10.4 For purposes of this Section, the term "BDO" shall include BDO Canada Limited and its subsidiaries, associated and affiliated entities and their respective current and former partners, directors, officers, employees, agents and representatives. The provisions of this Section shall apply to the fullest extent of the law, regardless of the form of the claim, whether in contract, statute, tort (including without limitation, negligence) or otherwise.

11 Intentionally deleted

Alternative Dispute Resolution

11.1 Both parties agree that they will first attempt to settle any dispute arising out of or relating to this Agreement, including any question regarding its existence, interpretation, validity, breach or termination, or the Services provided hereunder, through good faith negotiations.

In the event that the parties are unable to settle or resolve their dispute through negotiation, such dispute shall be subject to mediation using a mediator chosen by mutual agreement of the parties.



- 11.2 All disputes remaining unsettled for more than 60 days following the parties first mediation session with a mediator or such longer period as the parties mutually agree upon shall be referred to and finally resolved by arbitration. The parties agree that one arbitrator shall be appointed within twenty (20) days of receipt of the request for arbitration. If the parties cannot agree on the appointment of an arbitrator in such period then either party may immediately apply for the appointment of an arbitrator to a court of competent jurisdiction in the Province of the governing law as contained herein pursuant to such Province's applicable Arbitration Act. The place of arbitration shall be in the capital of the Province of the governing law as contained herein. Unless the arbitrator otherwise determines, the fees of the arbitrator and the costs and expenses of the arbitration will be borne and paid equally by the parties. Such arbitration shall be final, conclusive and binding upon the parties, and the parties shall have no right of appeal or judicial review of the decision whatsoever. The parties hereby waive any such right of appeal or judicial review which may otherwise be provided for in any provincial arbitration statute. Judgement upon the award, including any interim award, rendered by the arbitrator may be entered in any court having jurisdiction. The arbitration shall be kept confidential and the existence of the arbitration proceeding and any element thereof (including but not limited to any pleadings, briefs or other documents submitted and exchanged and testimony and other oral submissions and any awards made) shall not be disclosed beyond the arbitrator(s), the parties, their counsel and any person to whom disclosure is necessary to the conduct of the proceeding except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.
- 12 **Limitation Period**
- 12.1 You shall make any claim relating to Services or otherwise under this Agreement no later than one year after you became aware or ought reasonably to have become aware of the facts giving rise to any such claim.
You shall in no event make any claim relating to the Services or otherwise under this Agreement later than four years after the completion of the Services under this Agreement.
- 12.2 To the extent permitted by law, the parties to this Agreement agree that the limitation periods established in this Agreement replace any limitation periods under any limitations act and/or any other applicable legislation and any limitation periods under any limitations act and/or any other applicable legislation shall not alter the limitation periods specified in this Agreement.
- 13 **Québec Personnel**
- 13.1 We may sometimes have individual partners and employees performing Services within the Province of Québec who are members of the Ordre des comptables professionnels agréés du Québec. Any such members performing professional services hereunder assumes full personal civil liability arising from the practice of their profession, regardless of their status within our partnership. They may not invoke the liability of our partnership as grounds for excluding or limiting their own liability. Any limitation of liability clauses in this Agreement shall therefore not apply to limit the personal civil liability of partners and employees who are members of the Ordre des comptables professionnels agréés du Québec
- 14 **Termination**
- 14.1 This Agreement applies to Services whenever performed (including before the date of this Agreement).
You or we may terminate this Agreement at any time upon written notice of such termination to the other party. We will not be liable for any loss, cost or expense arising from such termination. You agree to pay us for all Services performed up to the date of termination, including Services performed, work-in-progress and expenses incurred by us up to and including the effective date of the termination of this Agreement.
- 15 **Governing Laws**
- 15.1 The terms of our engagement shall remain operative until amended, terminated, or superseded in writing. They shall be interpreted according to the laws of the province or territory in which BDO's principal Canadian office performing the engagement is located, without regard to such province/territory's rules on conflicts of law.
- 16 **Survival**
- 16.1 The provisions of this Agreement that give either of us rights or obligations beyond its termination shall continue indefinitely following the termination of this Agreement. Any clause that is meant to continue to apply after termination of this Agreement will do so.



17 Force Majeure

17.1 We will not be liable for any delays or failures in performance or breach of contract due to events or circumstances beyond our reasonable control, including acts of God, war, acts by governments and regulators, acts of terrorism, accident, fire, flood or storm or civil disturbance.

18 Assignment

18.1 No party may assign, transfer or delegate any of the rights or obligations hereunder without the written consent of the other party or parties. BDO may engage independent contractors and BDO Member Firms to assist us in performing the Services in this Agreement without your consent.

19 Severability

19.1 The provisions of this Agreement shall only apply to the extent that they are not prohibited by a mandatory provision of applicable law, regulation or professional standards. If any of these provisions shall be held to be invalid, void or unenforceable, then the remainder of this Agreement shall not be affected, impaired or invalidated, and each such remaining provision shall be valid and enforceable to the fullest extent permitted by law.

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T&C version: 20230630



APPENDIX B - SUMMARY OF CHANGE ORDER LOG

Contractor	Original Contract Value	Revised Contract Value	Variance
	\$	\$	\$
Abrocc	380,000	383,190	3,190
Alliance	595,000	630,500	35,500
Allmar CO Log	270,000	273,750	3,750
Astley Gilbert CO Log	1,181	3,255	2,074
Atlas Ironworks CO Log	395,000	397,100	2,100
B&N CO Log	27,850	43,437	15,587
Baker Turner CO Log	96,000	98,925	2,925
Classic Tile CO Log	1,489,400	1,655,340	165,940
Dircam CO Log	3,300,000	3,320,000	20,000
Dolvin CO Log	9,800,000	9,795,000	(5,000)
Halton Hoisting CO Log	-	20,650	20,650
Iron Shoring	1,180,000	1,309,615	129,615
KC Structural Roofing	800,000	795,450	(4,550)
KC Structural Traffic Topping	1,254,000	1,045,953	208,047
Keystone CO Log	264,554	293,932	29,378
LEA Consulting CO Log	5,500	6,881	1,381
Live Patrol CO Log	1,500	4,625	3,125
Oneil CO Log	320,000	290,860	(29,140)
RJC CO Log	90,000	132,650	42,650
SNC CO Log	238,000	272,509	34,509
Soil Eng CO Log	3,500	3,950	450
Tarra Engineering CO Log	38,800	89,600	50,800
Uniqspace CO Log	416,400	395,850	(20,550)
WJ Groundwater CO Log	50,974	115,384	64,410
WSP PO 723 CO Log	2,500	3,530	1,030
WSP PO 731 R1 CO Log	8,500	9,690	1,190
YorK Power CO Log	11,750	19,400	7,650
Lido Wall	1,800,000	2,089,176	289,176
Roni	2,522,000	2,528,000	6,000
Summit	250,000	260,367	10,367
Plycon	9,500,000	10,500,000	1,000,000
Total	35,112,409	36,788,569	2,092,254



APPENDIX C - CONTINGENCY FUND ALLOCATION

CBRR #	Contingency Allocation
2	We note a net contingency increase of $\pm\$443,000$ due to reassessment of property taxes, increases in consultancy fees as well as savings made in construction as a result of shoring contract price being lower than anticipated. In addition, we have made several budget adjustments to accurately reflect the cost to complete
3	We note a net contingency reduction of $\pm\$210,000$ mainly due to increase in project insurances.
4	External contingency carried in the construction Budget at $\$3,439,232$, represents $\pm 5.6\%$ of the construction cost to complete.
5	We note a contingency reduction of $\pm\$19,000$ due to additional cost incurred in legal interim financing.
6	We note an overall contingency increase of $\pm\$39,000$ mainly due to savings made in elevator as contract amount received was less than expected. Savings on elevator offset increases in permit and permanent hydro connection fee.
9	There is a decrease of $\pm\$127,000$ in the contingency this period mainly due to budget adjustment on realty tax to accurately reflect the cost to complete.
10	There is a decrease of $\pm\$121,000$ in the contingency this period mainly due to change order on shoring work to install insulation of wire mesh and spray foam.
11	We note a contingency reduction of $\pm\$950,000$ mainly due to formwork contract has been renegotiated to a higher amount and restatement of the cashflow for the current interest rate.
12	We note a construction contingency reduction of $\pm\$207,000$ mainly due to additional contract received for fire door system.



APPENDIX D - COSTS AND PAYMENT VERIFICATION PROCEDURES AND RESULTS

Invoice Sampling

The chart below summarizes the invoices reviewed by BDO in support of amounts submitted for Project Funding as of CBRR 21 representing costs reviewed/submitted through August 31, 2023:

(000's, excl. # of items)		Project Funding as at May 31,		Sampled	Other Cost		
Section	Category	2023	# of Invoices	Invoices	Testing	Coverage	Footnote
		\$	#	\$	\$	%	
A	Land	17,287	-	-	17,287	100.0%	(i)
B	Planning & Preconstruction	10,718	9	9,020	-	82.8%	
C	Administration	206	-	-	-	0.0%	
D	Sales/Marketing/Commission	2,712	8	1,037	-	34.7%	
E	Finance	2,307	1	796	-	34.1%	(ii)
F	Contingency	-	-	-	-	0.0%	
G	Development interest	3,804	-	-	3,804	100.0%	(iii)
H	Interest on purchaser deposits	-	-	-	-	0.0%	
I	Occupancy costs	-	-	-	-	0.0%	
J	Construction	30,771	184	21,580	-	67.3%	
K	Revenue	-	-	-	-	0.0%	
L	Taxes	1,151	-	-	-	0.0%	
	Total	68,955	202	32,433	21,091	75.7%	

- i. The Land charges reconcile to the original terms and conditions sheet and is supported by the appraisal value.
- ii. Finance charges relating to MCAP per term sheet.
- iii. MCAP confirmed Development Interest up to CBRR 21.

BDO traced 202 vendor invoices and other cost testing representing \$53.52 million (75.7% of total charges) and representing 70.6% of total charges of Sections 'B', 'D' and 'J'. Invoice amounts were agreed to supporting documentation without exception and confirm that MCAP Funding requests are supported by vendor invoices.

The traced invoices were selected based on the following criteria:

- All invoices paid by the Company which were in excess of \$100,000;
- A portion of invoices forming part of a vendor payment in excess of \$100,000 which paid multiple individual invoices of less than \$100,000;
- Invoices which were readily accessible and could be efficiently traced during the tracing of other invoices and payments in excess of \$100,000, as previously noted; and
- Invoices traced as part of other procedures performed during BDO's review.

The effort to trace payments to invoices was notably more challenging than the payment verification sampling as: i) payments often related to multiple invoices and ii) the electronic



copies of invoices were stored in different locations and with naming conventions that made them difficult to locate. As a result, not all invoices selected for payment verification sampling were included in the invoice sampling.

Based on our review and relating sampling, it appears that the Cost Submissions included for Project Funding up to CBRR 21 are supported by applicable vendor invoices.

Payment Verification Sampling

BDO reviewed a listing of Project payments assembled by CB Ross and reconciled the list to the Vendor Tracking. BDO traced a selection of payments to supporting documentation, including cancelled cheques and wire verifications. The chart below summarizes the payment verification documents reviewed by BDO in support of the Project fundings as at September 30, 2023:

<i>(000's, excl. # of items)</i>			# of	Sampled	Other	
Section	Category	Total Payments	Payments	Payment	Payment	Coverage
		\$	#	\$	\$	%
A	Land	17,287	-	-	17,287	100.0%
B	Planning & Preconstruction	10,695	26	9,601	-	89.8%
C	Administration	206	-	-	-	0.0%
D	Sales/Marketing/Commission	1,535	7	770	-	50.2%
E	Finance	1,770	-	-	-	0.0%
F	Contingency	-	-	-	-	0.0%
G	Development interest	3,036	-	-	3,036	100.0%
H	Interest on purchaser deposits	-	-	-	-	0.0%
I	Occupancy costs	-	-	-	-	0.0%
J	Construction	19,796	122	15,721	-	79.4%
K	Revenue	-	-	-	-	0.0%
L	Taxes	-	-	-	-	0.0%
	Total	54,324	155	26,092	20,323	85.4%

- i. Land value verified by the terms of the commitment letter and supported by an appraisal.
- ii. MCAP confirmed payment of development interest up to CBRR 21.

BDO traced 155 payment verifications and performed other payment verifications representing \$46.41 million (85.4% of total payments) to confirm the accuracy and existence of these payments. The payments reviewed related strictly to Sections B, D and J representing 81.5% of total invoices in those Project categories. Payments were agreed to payment verification documents without exception.

The traced payments were selected based on the following criteria:

- All payments which were in excess of \$100,000;

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- Payments under \$100,000 which were readily accessible and could be quickly traced during the tracing of payments in excess of \$100,000, as previously noted; and
- Payments traced as part of other procedures performed as part of the BDO review.

Based on our review and related sampling, the reported payments made in support of Cost Submission appear reasonable.



APPENDIX E - DIFFERENCES BETWEEN CBRR 21 AND ACTUAL COSTS-TO-DATE

In reference to the Actual Costs-to-Date section of this report, the differences between CBRR 21 and actual costs-to-date related to the following factors:

1. Disputed invoices -> The largest variance between costs reported in CBRR 21 and actual costs-to-date was the result of disputed invoices. The largest disputed invoices relate to Dolvin and Dircam, which are discussed in detail in the Lien Claim Review section of this report.
2. Invoices not Claimed -> It was identified for Salit Steel that invoices totaling \$108,000 (prior to HST) in December 2022, have been paid but not reported as a cost-to-date nor claimed for MPAC Funding. The costs of these invoices should be included in actual costs-to-date, regardless of whether the invoice has been funded.
3. Viola & ML Ready Mix -> Due to the volume of invoices, we were unable to reconcile the specific invoices creating the actual costs-to-date variance. It appears an additional \$167,500 in costs have been incurred to date, but not included in Cost Submissions as of CBRR 21.
4. Errors in Claiming Holdback Amounts -> Total Alliance Site Construction Ltd. invoices detailed in the Vendor Tracking were \$630,500, resulting in holdback deductions over the course of invoicing of \$63,050. The holdback invoices issued were included in Cost Submissions in addition to the full amount of the actual costs, resulting in a double-claim of the holdback amount. This has resulted in an overfunding variance of \$63,000.

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APPENDIX F - PRICE ESCALATION FACTORS FOR CONSTRUCTION MATERIALS

Item	% Change	Cumulative	Cumulative	Average Monthly
	(Sep 2020 to Aug 2023)	increase in price index (Jan 2016 to Dec 2019)	increase in price index (Jan 2020 to Aug 2023)	Inflation (Jan 2020 to Aug 2023)
	%	%	%	%
Concrete Curbs & Sidewalks	41.6%	-3.4%	48.5%	1.1%
Precast Concrete (architectural)	27.2%	9.1%	26.7%	0.6%
Masonry Labour	3.3%	10.5%	5.1%	0.1%
Interior Stair Railings	41.6%	13.1%	40.5%	0.9%
Finish Carpentry	114.0%	20.2%	123.6%	2.8%
Kitchen Cabinets	11.3%	5.9%	16.1%	0.4%
Waterproofing	45.3%	16.7%	46.5%	1.1%
Caulking & Sealants	34.1%	8.9%	33.4%	0.8%
Bituminous Roofing	45.3%	16.7%	46.5%	1.1%
Metal Doors & Frames	51.7%	17.4%	52.9%	1.2%
Shower Doors	51.7%	17.4%	52.9%	1.2%
Glazing	33.0%	10.6%	33.0%	0.8%
Drywall	11.5%	5.5%	66.2%	1.5%
Ceramic Tile - suites	11.2%	20.0%	-0.4%	0.0%
Granite	31.7%	4.2%	32.1%	0.7%
Paint	33.7%	8.9%	33.0%	0.8%
Appliances	26.8%	-5.5%	37.7%	0.9%
Furnishings	7.0%	9.6%	9.8%	0.2%
Elevators	17.1%	4.1%	22.3%	0.5%
Mechanical	6.9%	3.3%	7.2%	0.2%
Electrical	38.7%	0.9%	40.1%	0.9%
Lighting Fixtures Suites	-5.8%	20.6%	1.2%	0.0%



APPENDIX G - DETAILED ANALYSIS OF ADJUSTED SHORTFALL BY PROJECT CATEGORY

Section B: Planning & Preconstruction

The chart below provides a summary of the Adjusted Shortfall by Code for amounts classified as Planning and Preconstruction category costs:

(000's) Code	Trade Name	Project Funding to May 31, 2023	HST	Total Charges	Total Payments	May Shortfall	Credit Balances	Adjusted Variance
		\$	\$	\$	\$	\$	\$	\$
B-1	R Avis/Rady	35	5	39	(41)	(1)	1	-
B-2	Soil Engineer/WSP	225	29	254	(239)	15	-	15
B-3	Kohn Architects /WSP	506	66	572	(554)	18	-	18
B-4	RJC/Rebar enterprise/masongsong	178	23	201	(176)	26	-	26
B-5	Automated Fire /SNC Lavalin	272	35	307	(268)	39	-	39
B-6	Masongsong	18	2	21	(5)	16	-	16
	Peto MaCallum/Soil Engineer/Tarra							
B-7	Engineering/WSP/Masongsong	82	11	93	(85)	8	-	8
B-8	Countrywide Landscaping/Baker Turner	12	1	13	(13)	0	-	0
B-9	Miscellaneous	185	24	209	(148)	61	-	61
B-13	Cash in Lieu	1,000	-	1,000	-	1,000	-	1,000
B-14	Development charges (Wire)	9,455	-	9,455	(8,891)	565	-	565
B-15	Tarion	3	-	3	(3)	-	-	-
B-16	Tarion Unit Registration	281	-	281	(274)	7	-	7
	Total	12,252	197	12,449	(10,695)	1,754	1	1,756

Overall, the Adjusted Shortfall for Planning and Preconstruction category costs totals \$1.75 million, of which approximately \$1.0 million relates to the Parkland payment and the \$550,000 Education levy set by the City with the remaining \$190,000 relating to 11 vendors discussed further below.

We are advised that in arriving at its valuation in respect of the Parkland charge, the City prepared its analysis as at October 13, 2022, however, the Company and its counsel contend that the City's valuation should have been determined as of the day before the issuance of the first building permit, which in this case would be July 13, 2021, thereby resulting in an overstatement of the valuation and assessed charges.

The Company provided a copy of its counsel's letter to the City dated November 21, 2022 in this regard (the "Aird & Berlis Letter"), which is attached hereto as **Appendix 'H'**. The Aird & Berlis Letter states that pursuant to the applicable sections of the Planning Act and Toronto Municipal Code, the City used the incorrect date to value the Site for the purposes of determining the Parkland payment.

The Company is disputing the Parkland charge on the basis of the City's valuation date. It is not clear what savings, if any, are anticipated if the City agrees with the Company's position.



We have been advised by the Company that to date, there has been no delays in granting permits and no threats by the City to take any action with regards to the Project on the basis of non-payment. We further understand that MCAP has requested CB Ross to reverse these amounts in CBRR 21. The Company advises that once the Parkland dispute is resolved, it will be paid together with the Education Levy.

The remaining \$190,000 Adjusted Shortfall is associated with 11 Vendors of which six (6) have submitted Vendor Statements confirming outstanding balances of approximately \$95,000 (5.4% of total Planning and Preconstruction category costs and 50% of this remaining variance). An additional three (3) vendors have provided Vendor Statements confirming their balances are currently nil. Overall, the Vendor Statements support the amounts presented in the Adjusted Shortfall for Planning and Preconstruction costs and it appears the MPAC funding for Section 'B' has been appropriately supported by Cost Submissions.

Section C: Administration

The Adjusted Shortfall for Administration costs totals \$39,000 associated with four (4) vendors. None of these vendors have provided Vendor Statements. Given the quantum of the variance, BDO has not investigated the Adjusted Shortfall of Administration costs.

Section D: Sales / Marketing / Commission

Sales, marketing and commission expenses (collectively, "Selling Expenses") funded to date total \$2.71 million which consist of: (i) marketing charges totaling \$162,000 that have been paid in full (funded by MCAP); and (ii) commissions for Agents totaling approx. \$2.57 million (funded by Westmount), as outlined in the chart below:

(000's) Code	Trade Name	Project Funding to May 31, 2023	Holdback	HST	Total Charges	Total Payments	May Shortfall	Credit Balances	Adjusted Shortfall
		\$	\$	\$	\$	\$	\$	\$	\$
Agent Commissions									
D-13	Outside Agent (invoiced)	1,427	-	186	1,613	(718)	895	-	895
	Outside Agent (uninvoiced)	564	-	-	564	-	564	-	564
D-14	In-House Agent	577	-	75	652	(655)	(2)	2	-
		2,568	-	261	2,828	(1,372)	1,456	2	1,458
Marketing									
D-2	Marketing	144	-	19	162	(162)	0	-	0
	Total	2,712	-	279	2,991	(1,535)	1,456	2	1,458

- i. The Adjusted Shortfall associated with Selling Expenses totals \$1.46 million, of which \$564,000 relates to commission charges for invoices that have not yet been rendered by the respective Agents (the "Uninvoiced Commissions", identified in the Company's chart above). Accordingly, the Company has not yet included this amount in its accounts payables, but has identified the balance as outstanding in the determination of the



Adjusted Shortfall. Based on our understanding of the terms, external Agents earn 4% commission on sales; 50% of which is due upon acceptance and 50% is due upon closing. The In-house Agent earns 1%, with similar payment terms.

Based on the foregoing, we understand there are no variances relating to MCAP funding associated with Selling Expenses. However, relative to Westmount Funding, the Company has outstanding obligations to the Agents for the balance of the initial 2% commissions which total \$1.46 million and there will be a further \$2.5 million payable (plus HST) at the time of closing.

Section J: Construction

The May Shortfall associated with Project Funding for Construction costs total \$6.73 million. However, after consideration of the Credit Balances (i.e. overpayments to certain vendors in excess of the invoices submitted for MCAP Funding), the Adjusted Shortfall owing to construction subcode vendors totals \$7.76 million as outlined in the chart below:

(000's)		Project funding			Total	Total	May	Credit	Adjusted
Sub-Code	Trade Name	to May 31, 2023	Holdback	HST	Charges	Payments	Shortfall	Balances	Shortfall
		\$	\$	\$	\$	\$	\$	\$	\$
3100	Plycon - Contract	10,030	(1,003)	1,173	10,200	(4,027)	6,173	-	6,173
3402	Lido Wall	772	(77)	90	785	(250)	535	-	535
16400	Dircam Electric Ltd	828	(83)	97	842	(418)	424	-	424
2701	Toronto Water	138	-	-	138	-	138	-	138
14200	Schindler Elevator	201	(20)	24	205	(88)	117	-	117
16501	Earl O'Neil Electric	91	-	12	103	(52)	51	-	51
15500	Automated Fire Protection	177	(18)	21	180	(132)	48	-	48
	Largest adjusted shortfalls	12,237	(1,201)	1,417	12,453	(4,967)	7,486	-	7,486
3201	Salit Steel	1,467	-	191	1,657	(1,781)	(123)	123	-
3301	Viola & ML Ready Mix	2,147	-	279	2,426	(2,752)	(326)	326	-
1010	Site staff (1010,1011,1013)	587	-	48	635	(1,094)	(459)	459	-
	Other vendor balances	9,019	(646)	983	9,355	(9,202)	154	117	270
	Total	25,456	(1,847)	2,918	26,527	(19,796)	6,731	1,025	7,756

The most significant components of the Construction Adjusted Shortfall relate to Plycon (\$6.17 million), Lido Wall (\$535,000) and Dircam (\$424,000).

Highlights from our review of the submitted Vendor Statements are as follows:

1. Plycon represents the largest component of the Adjusted Shortfall totaling \$6.17 million. After a review of the initial Plycon Vendor Statement, certain unallocated payments were identified relative to the Vendor Tracking sheets. Upon further review, Plycon reviewed and provided a revised Vendor Statement which reconciled to the May Shortfall and agreed with the Company's AP balance of \$8.27 million as at September 30, 2023. The Plycon Lien is discussed further in our review of the Lien Claims in **Appendix 'K'**.

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2. Lido Wall provided a Vendor Statement confirming a balance owing of \$535,000;
3. Dircam represents \$424,000 of the Adjusted Shortfall. Vandyk has disputed a number of the Dircam invoices (issued before and after May 2023), and Management advises that they expect the matter will have to be submitted for dispute resolution. Dircam has filed two liens totaling approximately \$850,000 and is discussed in our review of Lien Claims.

Overall, 30 of approximately 70 Construction category vendors have supplied Vendor Statements. Based on our review, we have verified approximately 90% of the reported Construction category vendors balances to Vendor Statements. Other vendors reviewed included:

- Earl O'Neill, Schindler and Automated Fire were reconciled to the Vendor Statements;
- The balance included in the Adjusted Shortfall for Iron Shoring is \$13,948, as verified on the Vendor Statement. However, the Vendor Statement shows an additional \$33,900 invoice dated May 29, 2023 as well as "Extras awaiting CO's [change orders]" of \$52,496 (including HST). The \$33,900 was not included in submissions to CB Ross as at May 2023, however, it is included in the AP balance as at September 30, 2023. Management advises they do not know to what the 'Extra's' relate and they have not been approved;
- Roni Excavating Limited Account Statement includes an outstanding invoice totaling \$32,700 recorded as "Extras Awaiting CO [change order]", while the Company's invoice schedule identifies this invoice as rejected. Subsequent to our initial review, the invoice was approved for a relatively similar amount and is included in AP as at September 30, 2023.

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APPENDIX H - AIRD & BERLIS LETTER DATED NOVEMBER 21, 2022



Brendan O'Callaghan
Direct: 647.426.2832
E-mail: bocallaghan@airdberlis.com

November 21, 2022

File No. 120815

By E-Mail

Kelly Matsumoto
Director, Planning & Administrative Tribunal Law
City of Toronto
Metro Hall
26th floor, 55 John Street
Toronto, ON M5V 3C6

Dear Ms. Matsumoto:

Re: 15 Neighbourhood Lane – Parks Levy Payment

Aird & Berlis LLP acts for Vandyk – Backyard Kings Mill Limited, the owner of the lands municipally known as 15 Neighbourhood Lane (the “**Site**”). The Site is part of a multi-phase development and was the subject of a Zoning By-law Amendment application, approved by City Council on March 10, 2016, and a subsequent Minor Variance application, approved by the Committee of Adjustment on November 5, 2020. These development applications have resulted in the approval of a 10-storey residential building on the Site (the “**Development**”).

The construction of the Development is underway with the first building permit issued on July 14, 2021. Our client recently submitted an application for the issuance of an above-grade building permit.

In response to the recent above-grade building permit application, our client received a letter dated October 13, 2022 from Mr. Peter Cheng (the “**October 13 Letter**”), outlining the parks levy payable pursuant to Section 42 of the *Planning Act* and City of Toronto Municipal Code Chapter 415, Article III. Based on correspondence with Mr. Stuart Tufts, our client was advised that October 13, 2022 is the effective date of the appraisal.

Section 42(6.4) of the *Planning Act* and Section 415-29.C. of Toronto Municipal Code, Chapter 415, Article III clearly state that the value of land is to be determined as of the day before the issuance of the first building permit.

It is our position that the City has used the incorrect date to calculate the value of the Site for the purposes of determining the amount of the cash-in-lieu of parkland dedication payment. Accordingly, we request that the City prepare a new appraisal report based on the date of July 13, 2021, being the day before the issuance of the first building permit.

We would welcome the opportunity to discuss this matter further with you or with another lawyer in your group whom you may assign to this file.

November 21, 2022
Page 2

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in black ink, appearing to read "Brendan O'Callaghan". The signature is stylized and somewhat cursive.

Brendan O'Callaghan
Partner

BO/NM

c: Client
Peter Cheng, Manager, Appraisal Advisory & Taxation Services for the City of Toronto

51153054.1

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APPENDIX I - AGED ACCOUNTS PAYABLE LISTING AS AT SEPTEMBER 30, 2023

VANDYK-Backyard Kings Mill Limited

*** AGED A/P SUMMARY - BY NAME ***

Period ending: 30-Sep-23

Vendor Name: First to Last
G/L payables account: All

Aging by invoice date

Vendor	Credit Limit	Current	30+ Days	60+ Days	90+ Days	120+ Days	Balance
DEV-005	Unlimited				3,607.53	52,701.88	56,309.41
SG-097	Unlimited	19,557.37	11,300.00				30,857.37
SG-083	Unlimited					121,704.39	121,704.39
SG-025	Unlimited	263.01	320.67	237.30	248.60	248.60	1,318.18
SG-074	Unlimited	11,441.25	3,203.55			42,375.85	57,020.65
SG-026	Unlimited				32,366.53		207,022.71
SG-079	Unlimited			62,864.33			7,613.60
MK-016	Unlimited			4,106.71	4,521.15		7,668.18
CM-021	Unlimited			725.00	251.75		15,956.32
OH-001	Unlimited	181.75	355.25				1,513.75
CM-020	Unlimited						51,495.01
CM-013	Unlimited					193,855.02	193,855.02
SG-037	Unlimited					3,431.56	3,431.56
SG-084	Unlimited					21,015.29	21,015.29
SG-044	Unlimited		323,424.36			6,278.73	329,703.09
SG-106	Unlimited	36,386.00	36,160.00				72,546.00
SG-107	Unlimited	2,730.26	66,414.62		7,522.41		76,667.29
MK-011	Unlimited					2,218.76	2,218.76
SG-063	Unlimited					226,485.90	398,358.90
SG-090	Unlimited	822,814.02	854,259.66	289,133.10			1,966,206.78
CM-018	Unlimited					10,839.86	10,839.86
SG-085	Unlimited			16,103.38	704.52	62,784.05	79,591.95
1-001	Unlimited					397.00	397.00
SG-092	Unlimited					1,426.62	1,426.62
SG-034	Unlimited					-3,724.40	-3,656.12
SG-101	Unlimited	5,650.00	565.00	7,599.25			13,814.25
SG-087	Unlimited						23,816.97
CM-015	Unlimited						38,551.76
SG-045	Unlimited						11,579.81
CM-010	Unlimited						44,457.95
SG-103	Unlimited	4,124.50	589.23		9,127.58		13,841.31
SG-071	Unlimited	15,834.69					27,293.44
DEV-001	Unlimited		5,650.00	4,520.00	4,294.00		54,584.01
SG-046	Unlimited						12,765.57
SG-088	Unlimited		314,558.10				849,377.00

VANDYK-Backyard Kings Mill Limited

*** AGED A/P SUMMARY - BY NAME ***

Period ending: 30-Sep-23

Vendor Name: First to Last
G/L payables account: All

Aging by invoice date

Vendor	Credit Limit	Current	30+ Days	60+ Days	90+ Days	120+ Days	Balance
SG-041	Unlimited	1,695.00	4,378.75	1,695.00	1,695.00	282.50	9,463.75
MK-007	Unlimited					282.50	282.50
DEV-007	Unlimited	678.00	678.00		1,251.48	3,428.98	6,036.46
SG-109	Unlimited	3,635.73					3,635.73
SG-099	Unlimited	960.50		960.50	960.50	960.50	3,842.00
SG-003	Unlimited					1,243.00	1,243.00
SG-076	Unlimited					816.43	816.43
LV-001	Unlimited	7,709.43		1,214.75	18,695.85		27,620.03
SG-096	Unlimited		3,491.70			4,548.25	8,039.95
SG-072	Unlimited	178,992.00	754,411.58	731,597.03	439,726.39	6,173,125.87	8,277,852.87
SG-104	Unlimited			303,269.40			303,269.40
SG-100	Unlimited				63,409.95		63,409.95
SG-043	Unlimited					4,432.99	4,432.99
CM-008	Unlimited					18,784.44	18,784.44
CM-009	Unlimited					23,659.61	23,659.61
CM-002	Unlimited					86,988.81	86,988.81
CM-004	Unlimited					23,419.60	23,419.60
SG-004	Unlimited	6,215.00					6,215.00
SG-061	Unlimited			227.46	734.94	37,782.93	38,745.33
CM-003	Unlimited					9,724.63	9,724.63
CM-019	Unlimited					76,438.80	76,438.80
CM-007	Unlimited					24,539.62	24,539.62
CM-011	Unlimited					86,929.33	86,929.33
SG-078	Unlimited	440.70	440.70	220.35	220.35	5,508.75	6,830.85
SG-060	Unlimited		144,863.80	168,882.96	186,736.57		500,483.33
CM-014	Unlimited					85,838.59	85,838.59
CM-012	Unlimited					101,164.37	101,164.37
SG-056	Unlimited					116,955.00	116,955.00
SG-009	Unlimited					9,371.82	10,491.50
SG-102	Unlimited		18,348.61	7,294.48	9,820.58	3,462.05	38,925.72
SG-005	Unlimited			750.00	369.68	40,982.26	40,982.26
SG-031	Unlimited	521.50	1,415.33	3,749.92	583.65	60,463.50	66,733.90
SG-089	Unlimited					446.35	446.35
CM-017	Unlimited					96,388.98	96,388.98
SG-028	Unlimited	2,541.38	4,217.63	3,815.41	2,244.65	22,056.35	34,875.42

VANDYK-Backyard Kings Mill Limited

*** AGED A/P SUMMARY - BY NAME ***

Period ending: 30-Sep-23

Vendor Name: First to Last
G/L payables account: All

Aging by invoice date

Vendor	Credit Limit	Current	30+ Days	60+ Days	90+ Days	120+ Days	Balance
DEV-008	Unlimited						
SG-105	Unlimited	289.56	-22.60	1,336.76		61,302.50	61,302.50
SG-069	Unlimited	2,587.70	2,587.70	2,587.70		10,350.80	1,603.72
SG-077	Unlimited	339.00	678.00			20,701.60	20,701.60
CM-016	Unlimited					1,017.00	1,017.00
SG-016	Unlimited	2,552.72	3,148.77			73,929.40	73,929.40
SG-033	Unlimited	9,071.47				5,701.49	5,701.49
SG-070	Unlimited				9,304.80	26,978.23	45,354.50
SG-019	Unlimited	1,356.00				105,869.70	105,869.70
SG-095	Unlimited	91,068.58	126,386.94			1,130.00	2,486.00
SG-081	Unlimited	35,807.79	119,496.18			17,067.74	234,523.26
SG-073	Unlimited	4,205.14	9,012.32			558,195.17	558,195.17
SG-008	Unlimited				244,596.55	18,556.13	52,088.85
SG-039	Unlimited	3,149.29	2,519.43		27,054.00	0.22	27,054.22
DEV-003	Unlimited				3,149.29	2,519.43	15,746.44
3G-023	Unlimited						1,344.70
							223.74
							223.74

** GRAND TOTAL **

**END OF REPORT **

1,272,799.34 2,928,213.41 1,904,859.20 1,133,319.93 8,985,957.99 16,225,149.87

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APPENDIX J - ONTARIO LAND TITLES SEARCH DATED OCTOBER 13, 2023



LAND REGISTRY OFFICE #66
 07500-0082 (LT)
 PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 1 OF 7
 PREPARED FOR Galluzzo
 ON 2023/10/13 AT 15:23:06

PROPERTY DESCRIPTION:

PART OF BLOCKS B, C & D, REGISTERED PLAN 5261, DESIGNATED AS PLS 5, 6, 7 & 8 PLAN 66R28992; S/T EASEMENT IN FAVOUR OF PLS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865050; T/W EASEMENT OVER PLS 1 - 4, 10 - 14, 16, 18 & 28, 66R28992 AS IN AT4865050 & AT4865051; S/T INTEREST OF THE CITY OF TORONTO AS IN EBI16721; TOGETHER WITH A RIGHT OF WAY OVER PLS 7, 8, 9, 66R28992 AS IN AT4478684; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN AT5347804; SUBJECT TO AN EASEMENT IN GROSS OVER PART 7, 66R28992 AS IN AT5347808; SUBJECT TO AN EASEMENT IN GROSS OVER PART 6, 66R28992 AS IN AT5347812; SUBJECT TO AN EASEMENT AS IN AT5367415; SUBJECT TO AN EASEMENT IN GROSS OVER PART 5, 66R28992 AS IN AT5479699; CITY OF TORONTO

PROPERTY REMARKS:

FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2018/04/13. PLANNING ACT CONSENT IN DOCUMENT AT4865050.

ESTATE/QUALIFIER:

REGENDLY:
 DIVISION FROM 07500-0078

PLAN CREATION DATE:
 2018/06/06

FEE SIMPLE LT ABSOLUTE PLUS

OWNERS' NAMES
 VANDYK - BACKYARD KINGS MILL LIMITED

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
** PRINTOUT		INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2018/06/06 **				
**SUBJECT NO		PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **				
**		TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **				
EBI60013	1955/10/24	AGREEMENT			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
EBI63037	1956/01/03	CERTIFICATE			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
EBI17163	1956/11/19	AGREEMENT			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
EBI81933	1957/04/04	AGREEMENT			THE CORPORATION OF THE TOWNSHIP OF ETOBICOKE	C
EBI86721	1957/07/29	BYLAW			TOWNSHIP OF ETOBICOKE	C
EBI88451	1957/09/06	AGREEMENT			TOWNSHIP OF ETOBICOKE	C
AT3907826	2015/06/09	CHANGE	*** DELETED AGAINST THIS PROPERTY *** 2384903 ONTARIO INC.		J LANG ASSET MANAGEMENT INC. HRLI REAL ESTATE INVESTMENT LP	
		CORRECTIONS: PARTY TO NAME:HRLI REAL ESTATE INVESTMENT LP ADDED ON 2016/08/24 AT 15:45 BY GARRETT, TRACEY.				
AT3907827	2015/06/09	NO ASSGN RENT GEN	*** DELETED AGAINST THIS PROPERTY *** 2384903 ONTARIO INC.		J LANG ASSET MANAGEMENT INC. HRLI REAL ESTATE INVESTMENT LP	
		CORRECTIONS: PARTY TO NAME:HRLI REAL ESTATE INVESTMENT LP ADDED ON 2016/08/24 AT 15:45 BY GARRETT, TRACEY.				
AT4216176	2016/07/13	APL CH NAME OWNER	2384903 ONTARIO INC.		VANDYK - BACKYARD HOMERSIDE LIMITED	C

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 LAND REGISTRY OFFICE #66
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AT4296558	2016/08/02	CHARGE		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED	MERIDIAN CREDIT UNION LIMITED	
AT4296559	2016/08/02	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED	MERIDIAN CREDIT UNION LIMITED	
REMARKS: AT4296558						
AT4296582	2016/08/02	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** J LANG ASSET MANAGEMENT INC. HRJI REAL ESTATE INVESTMENT LP	MERIDIAN CREDIT UNION LIMITED	
REMARKS: AT3907826 TO AT4296558						
66R28992	2016/10/28	PLAN REFERENCE	\$2	CITY OF TORONTO		C
AT478657	2017/02/02	NOTICE				C
REMARKS: SITE PLAN AGT.; PYS 1,2,3,9,15,16,17,18,22 PLAN 66R28992						
66R2993	2018/04/13	PLAN REFERENCE				C
AT4865050	2018/05/16	TRANSFER		VANDYK - BACKYARD HUMBERSIDE LIMITED	VANDYK - BACKYARD KINGS MILL LIMITED	C
AT4890817	2018/06/20	CHARGE		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD QUENSVIEW LIMITED VANDYK - BACKYARD KINGS MILL LIMITED VANDYK-SHOEPES OF STONEGATE LIMITED	KINGSERT MORTGAGE CORPORATION	
AT4890818	2018/06/20	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** VANDYK-BACKYARD HUMBERSIDE LIMITED VANDYK-BACKYARD QUENSVIEW LIMITED VANDYK-BACKYARD KINGS MILL LIMITED VANDYK-SHOEPES OF STONEGATE LIMITED	KINGSERT MORTGAGE CORPORATION	
REMARKS: AT4890817.						
AT4891678	2018/06/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** J LANG ASSET MANAGEMENT INC. HRJI REAL ESTATE INVESTMENT LP		
REMARKS: AT3907826.						
AT5186698	2019/07/16	CHARGE		*** DELETED AGAINST THIS PROPERTY *** VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD KINGS MILL LIMITED	KINGSERT MORTGAGE CORPORATION	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
ATS200718	2019/07/31	LR'S ORDER		LAND REGISTRAR, TORONTO LAND REGISTRY OFFICE		C
		REMARKS: TO AMEND PIN TO ADD PART 9	66R29993 TO EASEMENT AT478658			
ATS327060	2019/12/20	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** GREAT PYRAMID GLASS AND MIRROR LTD.		
ATS338546	2020/01/10	APL AMEND ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	GREAT PYRAMID GLASS AND MIRROR LTD.	
ATS347788	2020/01/22	NOTICE		CITY OF TORONTO		C
ATS347793	2020/01/22	TRANSFER RELABAND	\$2	VANDYK-BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
		REMARKS: AT4865049, PARTIAL RELEASE	AS TO PARTS 10, 13, 14 AND 28, 66R28992 AND PART 1, 66R30958			
ATS347804	2020/01/22	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
ATS347805	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
		REMARKS: AT4890817 TO AT5347804				
ATS347806	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	
		REMARKS: AT4296558 TO AT5347804				
ATS347807	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
		REMARKS: AT5186698 TO AT5347804				
ATS347808	2020/01/22	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
ATS347809	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
		REMARKS: AT4890817 TO AT5347808				
ATS347810	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	
		REMARKS: AT4296558 TO AT5347808				
ATS347811	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
		REMARKS: AT5186698 TO AT5347808				

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ATS347812	2020/01/22	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
ATS347813	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	
ATS347814	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
ATS347815	2020/01/22	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION	CITY OF TORONTO	
ATS348063	2020/01/22	APL (GENERAL)		VANDYK-SHOPPES OF STONEGATE LIMITED	CITY OF TORONTO	C
ATS348064	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
ATS348065	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
ATS348066	2020/01/22	APL (GENERAL)		VANDYK-SHOPPES OF STONEGATE LIMITED	CITY OF TORONTO	C
ATS348067	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
ATS348068	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
ATS348069	2020/01/22	APL (GENERAL)		VANDYK-SHOPPES OF STONEGATE LIMITED	CITY OF TORONTO	C
ATS348070	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
ATS348071	2020/01/22	APL (GENERAL)		VANDYK - BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
ATS367415	2020/02/19	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	ROGERS COMMUNICATIONS INC.	C

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ATS380929	2020/03/04	CHARGE	\$30,000,000	VANDYK - BACKYARD KINGS MILL LIMITED	WESTMOUNT GUARANTEE SERVICES INC.	C
ATS399678	2020/04/01	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** NANO INDUSTRIES ONTARIO INC.		
ATS406606	2020/04/14	APL DEL CONST LIEN		*** COMPLETELY DELETED *** VANDYK - BACKYARD KINGS MILL LIMITED VANDYK - BACKYARD HUMBERSIDE LIMITED		
ATS430161	2020/05/15	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSSETT MORTGAGE CORPORATION	WESTMOUNT GUARANTEE SERVICES INC.	
ATS430162	2020/05/15	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSSETT MORTGAGE CORPORATION	WESTMOUNT GUARANTEE SERVICES INC.	
ATS436497	2020/05/26	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EMPIRE CONTROLS LTD.		
ATS443208	2020/06/03	APL DEL CONST LIEN		*** COMPLETELY DELETED *** EMPIRE CONTROLS LTD.		
ATS472421	2020/07/14	DISCH OF CHARGE		*** COMPLETELY DELETED *** KINGSSETT MORTGAGE CORPORATION		
ATS479699	2020/07/23	TRANSFER EASEMENT	\$2	VANDYK - BACKYARD KINGS MILL LIMITED	CITY OF TORONTO	C
ATS479700	2020/07/23	POSTPONEMENT		*** COMPLETELY DELETED *** KINGSSETT MORTGAGE CORPORATION	CITY OF TORONTO	
ATS479701	2020/07/23	POSTPONEMENT		MERIDIAN CREDIT UNION LIMITED	CITY OF TORONTO	C
ATS479702	2020/07/23	POSTPONEMENT		ROGERS COMMUNICATIONS INC.	CITY OF TORONTO	C
ATS479703	2020/07/23	POSTPONEMENT		WESTMOUNT GUARANTEE SERVICES INC.	CITY OF TORONTO	C

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AT5479777	2020/07/23	APL (GENERAL) REMARKS: AT4865050 POSTPONED TO AT5479699		VANDYK-BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
AT5479778	2020/07/23	APL (GENERAL) REMARKS: AT4865050 POSTPONED TO AT5479699		VANDYK-BACKYARD QUEENSVIEW LIMITED	CITY OF TORONTO	C
AT5479779	2020/07/23	APL (GENERAL) REMARKS: AT4865050 POSTPONED TO AT5479699		VANDYK-BACKYARD HUMBERSIDE LIMITED	CITY OF TORONTO	C
AT5531340	2020/09/29	NOTICE	\$2	VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD QUEENSVIEW LIMITED VANDYK - BACKYARD KINGSMILL LIMITED		C
AT5531477	2020/09/29	TRANSFER RELABAND REMARKS: AT4865049.		VANDYK - BACKYARD HUMBERSIDE LIMITED VANDYK - BACKYARD KINGS MILL LIMITED VANDYK - BACKYARD QUEENSVIEW LIMITED	VANDYK - BACKYARD HUMBERSIDE LIMITED	C
AT5581120	2020/11/26	CHANGE	\$104,500,000	VANDYK - BACKYARD KINGS MILL LIMITED	MCAP FINANCIAL CORPORATION	C
AT5581121	2020/11/26	NO ASSGN RENT GEN REMARKS: AT5581120.		VANDYK - BACKYARD KINGS MILL LIMITED	MCAP FINANCIAL CORPORATION	C
AT5581126	2020/11/26	POSTPONEMENT REMARKS: AT53802970 TO AT5581120 TO AT5581121		WESTMOUNT GUARANTEE SERVICES INC.	MCAP FINANCIAL CORPORATION	C
AT5582589	2020/11/27	DISCH OF CHANGE REMARKS: AT4890817.		*** COMPLETELY DELETED *** KINGSETT MORTGAGE CORPORATION		
AT5677735	2021/03/16	DISCH OF CHANGE REMARKS: AT4236558.		*** COMPLETELY DELETED *** MERIDIAN CREDIT UNION LIMITED		
AT5680013	2021/03/18	NOTICE	\$2	CITY OF TORONTO		C
AT5680014	2021/03/18	POSTPONEMENT REMARKS: AT53802929 TO AT5680013		WESTMOUNT GUARANTEE SERVICES INC.	CITY OF TORONTO	C
AT5680015	2021/03/18	POSTPONEMENT REMARKS: AT5581120 TO AT5680013		MCAP FINANCIAL CORPORATION	CITY OF TORONTO	C

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AT6374411	2021/04/27	CERTIFICATE		HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF THE ENVIRONMENT, CONSERVATION AND PARKS ENVIRONMENTAL PROTECTION ACT		C
AT6340102	2023/05/25	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** DOLVIN MECHANICAL CONTRACTORS LIMITED		
AT6356023	2023/06/15	APL DEL CONST LIEN		*** COMPLETELY DELETED *** DOLVIN MECHANICAL CONTRACTORS LIMITED		
AT6360204	2023/06/22	CONSTRUCTION LIEN		*** DELETED AGAINST THIS PROPERTY *** RONI EXCAVATING LIMITED		
AT6375492	2023/07/14	APL DEL CONST LIEN		*** COMPLETELY DELETED *** RONI EXCAVATING LIMITED		
REMARKS: AT6360204.						
AT6407063	2023/08/25	CONSTRUCTION LIEN	\$743,323	DIRCAM ELECTRIC LIMITED		C
AT6408162	2023/08/29	CONSTRUCTION LIEN	\$103,508	DIRCAM ELECTRIC LIMITED		C
AT6423816	2023/09/20	CONSTRUCTION LIEN	\$61,359	KOHN PARTNERSHIP ARCHITECTS INC.		C
AT6424435	2023/09/20	CONSTRUCTION LIEN	\$9,899,781	PLYCON FORMING LTD.		C
AT6426188	2023/09/22	CONSTRUCTION LIEN	\$558,195	VIOLA READY MIX INC.		C
AT6427885	2023/09/26	CONSTRUCTION LIEN	\$500,488	MYER SALLT LIMITED		C
AT6439372	2023/10/12	CONSTRUCTION LIEN	\$240,354	AUTOMATED FIRE PROTECTION SYSTEMS INC.		C
AT6440475	2023/10/13	CONSTRUCTION LIEN	\$2,251,028	DOLVIN MECHANICAL CONTRACTORS LIMITED		

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APPENDIX K - DETAILED LIEN CLAIM REVIEW ANALYSIS

Plycon

Plycon filed a lien claim on September 20, 2023 in the amount of \$9,899,781. The variance compared to the Company's AP and Holdback is \$412,000. The specific amounts included in the Plycon Lien are not known with certainty, however we note as follows:

1. The Company's AP List and Plycon's revised Vendor Statement (dated October 4, 2023) both show outstanding AP of \$8,277,853;
2. The associated Holdbacks based on invoices issued to date per the Vendor Tracking totals \$1,209,921 prior to consideration of HST;
3. If the Plycon Lien includes HST on the above Holdback (i.e. \$157,290), the variance would be reduced to \$254,718;
4. Further, we note that the Plycon Lien was registered September 20, 2023. As outlined previously, based on an initial review of Plycon's original Vendor Statement, Plycon reviewed its account and provided a revised Vendor Statement. The revision to the Plycon Vendor Statement would serve to reduce the Plycon Lien and the variance by a further \$166,000, as illustrated in the chart below:

	(000's)		
	Invoice Amount	Payments / Credits	Outstanding
	\$	\$	\$
Original - Sep 18/23	10,335	1,891	8,444
Revised - Oct 4/23	10,330	2,052	8,278
Variance	4	(161)	166

5. Based on the foregoing, and assuming the Plycon Lien included HST on outstanding Holdbacks, it appears that Plycon's lien is overstated by \$166,000 and the Company's reported balances owing to Plycon are within approximately \$90,000 of the Plycon Lien.

Disputed Invoices

For the purpose of reviewing Dircam and Dolvin's costs to date as well as reconciling the Company's reported AP balances to the liens filed, the charts below provide a summary of the Lien Claim amounts vs. (i) reported AP/Holdback balances and (ii) Vandyk's assessment of their vendors percentage completion relative to the invoiced amounts.



Dircam

Dircam filed lien claims in the amounts of \$743,323 and \$103,508 on August 25, 2023 and August 28, 2023, respectively, (the “Dircam Lien”) with the latter appearing to relate to outstanding Holdbacks. In comparison, Dircam’s Vendor Statement dated October 5, 2023 showed slightly higher figures of \$750,851 and \$114,938 (for the holdback), being an overall variance in Dircam’s figures of \$18,958.

Based on the specific invoices listed in the Dircam Vendor Statement and the Company’s AP, it is not clear what the \$18,958 variance is relative to Dircam’s Lien, so to be conservative, in comparing the amounts owing to Dircam, the variance below is based on Dircam’s Vendor Statement which is marginally higher and lists specific invoices. Dircam’s Lien and Vendor Statement appear to separate Holdbacks and accordingly, the analysis below relates solely to the invoiced amounts (excluding Holdbacks):

(000's)						
Invoice No.	Period	Dircam			Progress Completed	
		Statement	Vandyk AP	Variance	Per Vandyk	Variance
Columns		A	B	A - B = C	D	A - D = E
		\$	\$	\$	\$	\$
J007479	Feb-23	74	74	-	74	-
J007577	Mar-23	61	61	-	61	-
J007710	Apr-23	92	92	-	92	-
J007874	May-23	168	-	168	-	168
J007884	Jun-23	172	172	-	-	172
J007914	Jul-23	61	-	61	-	61
J008036	Aug-23	124	-	124	-	124
Total		751	398	352	226	524
Unknown Lien Variance		(8)	-	(8)		
Reconciliation to Lien Claim		743	398	345		

The above chart illustrates a comparison of the invoices recorded in the Dircam Vendor Statement (Column ‘A’) versus the Vandyk AP (Column ‘C’), together with the variance versus Vandyk’s assessment of the progress completed (Column ‘D’). Overall the variance between Dircam’s invoices (totaling \$751,000) versus Vandyk’s assessment of the progress completed is \$460,000 (Column ‘E’). Vandyk assumes nil amounts owing for July and August 2023 (J007914 and J008036), on the basis that they are rejected until May and June invoices (J007874 and J007884) are approved.

Based on our review of the Dircam account and in particular the disputed invoices, we note as follows:



1. Invoice J007874 (\$167,805) (which is being disputed) has not been submitted to CB Ross (i.e. not included in costs to date per CBRR 20 or CBRR 21);
2. The remaining three disputed invoices (J007884, J007914 and J008036, totaling \$356,560) were submitted for CBRR 21 despite being in dispute;
3. The disputed invoice J007884 is included in the Company's AP balance but may be overstated to the extent of the amount disputed (a difference of \$150,000). Adding the progress completed amount of Invoice J007874 (\$44,748), the AP overstated in the Company's AP balance would be \$108,000 (prior to the Holdback deduction and HST).

Management outlined the Dispute Resolution process (see Appendix 'L') to resolve disputes of this nature. Therein Management advised that when a disputed invoice cannot be resolved, they would typically proceed to submit the information to the cost consultant for resolution. Based on the Company's analysis, the Lien may be overstated by up to \$460,000. Conversely, if it was determined that Dircam's assessment is correct, AP would increase by up to \$353,000. For purposes of our analysis and in particular the costs-to-date vs. costs to complete, we have assumed the Vandyk figures are the portion of the disputed invoices which have been approved and therefore included in costs-to-date.

Dolvin

Dolvin filed a lien claim in the amount of \$2,251,028 (the "Dolvin Lien") compared to the invoices listed in Vandyk's AP balance of \$1,966,207. Dolvin's Lien did not specify the amounts included, however based on our review it appears that the Dolvin Lien includes:

- i. The three invoices totaling \$1,966,206 that are included in Vandyk's AP list;
- ii. Holdback amount and HST for those same invoices;
- iii. A Holdback invoice Dolvin issued to Vandyk relating to the first seven (7) invoices on the Project (which were previously paid). Vandyk notes the Holdback invoice as rejected in its Vendor Tracking worksheet.

Relative to the Dolvin Lien we note that:

1. Dolvin's Vendor Statement (dated September 21, 2023) totaled \$1,054,405 plus a holdback of \$103,679 for services provided in July 2023 and August 2023. However, it appears those two invoices were not included in Dolvin's Claim and per Vandyk's Vendor Tracking



schedule, both invoices were noted as replaced, one of which was accepted (J00335) and one is in dispute;

2. Vandyk's AP list totaled \$1,966,207 (represented by the three invoices in Dolvin's Claim), however, Management advises that two of the three invoices are in dispute;
3. Vandyk's Vendor Tracking schedule for Dolvin shows work billed / approved of \$871,510 (prior to HB and HST) with an outstanding payable balance of \$289,133, as it shows the two invoices are rejected;
4. Separately, Vandyk provided its assessment of the completion percentage in relation to the two invoices in dispute (J003367 and J003368), which is represented by 'Progress Completed Per Vandyk' in the chart below.

As a result of the foregoing, there are various items and amounts to reconcile in considering the Dolvin Lien. Based on our review, the chart below illustrates, the variance (Column 'C') between Dolvin's Lien and Vandyk's AP & HB balance and the variance (Column 'E') between the Dolvin Lien vs. the Progress Completed per Vandyk:

<i>(000s)</i>						
Invoice No.	Period	AP & HB			Progress Completed	
		Dolvin Lien	Per Vandyk	Variance	Per Vandyk	Variance
<i>Columns</i>		A	B	A - B = C	D	A - D = E
		\$	\$	\$	\$	\$
J003365	Jul-23	289	289	-	289	-
J003367	Aug-23	854	854	-	668	186
J003368	Sep-23	823	823	-	684	139
Sub-total		1,966	1,966	-	1,642	325
Add: Holdback (re: above invoices)		193	28	165	161	32
Add: HST on Holdback (re: above invoices)		25	-	25	21	4
J003316 HB (on 7 prior invoices)		59	59	-	59	-
J003316 HST on HB (on 7 prior invoices)		8	-	8	8	-
Sub-total		285	87	198	249	36
Total		2,251	2,053	198	1,890	361

In comparing the Dolvin Lien versus Vandyk's assessment of the progress completed, the variance is approximately \$361,000 (after consideration of the deducted HB and related HST).

We understand that invoices J003367 and J003368 have not been submitted to CB Ross, however, they have been included in AP, despite being partially disputed. Accordingly, the costs to date in relation to invoice J003367 being the Vandyk completed/approved amounts totaling \$668,000 (i.e. excluding the HB and HST) would be included in costs to date as at CBRR 21.

Based on our review of the Dolvin account and in particular the two disputed invoices, we note as follows:

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- i. Dolvin's disputed invoice J003367 was not submitted in relation to CBRR 21, and accordingly costs to date are effectively higher (ranging between \$854,000 (per Dolvin) and \$668,000 (per Vandyk)
- ii. The disputed invoices are included in the Company's AP balance as at September 30, 2023 but may be overstated to the extent of the amount disputed (a difference of \$325,000 prior to HB deduction and HST).



APPENDIX L - INVOICING DISPUTE RESOLUTION PROCEDURE

Dispute Resolution

With respect to resolution of disputed invoices, Management provided the following summary of the steps to review and resolve vendor disputes:

1. Subtrade/vendor submits monthly progress draw to Vandyk.
2. Draw is reviewed with Vandyk office staff and site staff to verify scope completed to date reflects the subtrade draw request.
3. Disputed subtrade draws/invoices:
 - a. Step 1 - the disputed values are brought forward to the subtrade for revision.
 - b. Step 2 - if immediate agreement is not received to revise the draw amount, a meeting by phone is first conducted to resolve the issue.
 - c. Step 3 - An on-site meeting is conducted to walk the site to reach a mutual agreement to the percentage of work completed.
 - d. Step 4 - Should the subtrade refuse to revise the invoice they are advised the invoice will not be processed by Vandyk. Generally at this point the subtrade agrees to a mutual resolution and revises the invoice.
 - e. Step 5 - Should a resolution not be achieved, the invoice would be provided to CB Ross for their review, verification and resolution.

Management further advised that, generally speaking, invoices/draws from vendors, trades and even consultants tend to be front-end loaded requiring push-back by Vandyk, although up to recently they have been able to resolve any disputes from Step 1 to 4.

It is Management's opinion that both Dircam and Dolvin are acting irrationally with respect to their disputes including the refusal to revise their invoices. Accordingly, these disputes would need to proceed to Step 5 with both vendors for resolution.

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APPENDIX M - TRIAL BALANCE AS AT SEPTEMBER 30, 2023

VANDYK-Backyard Kings Mill Limited

Report date 30-Sep-23

*** TRIAL BALANCE ***

Balances As Of 30-Sep-23

Account No.	Description	Opening Balance		Change This Period		Closing Balance			
		Debit	Credit	Debit	Credit	Debit	Credit		
11120	Cash in Bank		33,771.12				1,116.49		
11135	SR Law file#41358	4,435.00			34,887.61		4,435.00		
11136	SR Law file#42157	7,333.20					7,333.20		
11137	SR law file#42745 - fogler rubinoff retainer fee	5,000.00					5,000.00		
11139	SR Law file#43525	750.00					750.00		
11161	Interco-1367027 Ontario Inc.		7,622,146.61		78,971.67				7,543,174.94
11162	Interco-2384903 Ont Inc. Backyard Humberstone	15,549,786.44					15,549,786.44		
11163	Interco-Vandyk Properties Inc.	7,206,481.63		65,000.00			7,271,481.63		
11164	Interco-Vandyk Holdings Inc.	987,050.00				20,800.00	966,250.00		
11165	Interco-2402871 Ontario Inc.	765,600.00					765,600.00		
11166	Interco-2012299 Ontario Inc.		27,776.98						27,776.98
11167	Interco-Vandyk Backyard Queensview	3,056,218.57				8,189.44	3,048,029.13		
11168	Interco - Craftsman	356,303.77					356,303.77		
11169	Interco - 2366885	4,435,968.05					4,435,968.05		
11170	Interco - Shoppes of Stonegate	101,807.54					101,807.54		
11171	Interco - Uplowns	11,996,616.27					11,996,616.27		
11172	Interco - 2587916 (Dikie)		9,890.08						9,890.08
11173	Interco - Commercial Co Ltd.	133,113.00		1,000.00			134,113.00		
11174	Interco - Summerhill	1,000.00					1,000.00		
11175	Interco - 2247131	269,800.00					269,800.00		
11176	Interco - West Park Village		2,865,730.86						2,865,730.86
11177	Interco - 1282555	843,462.29		11,700.00			855,162.29		
11178	Interco - Van Mills	30,154.00					30,154.00		
11179	Interco-Diversified		15,674,208.30			750.00			15,674,958.30
11180	Interco-2495065 Ontario Inc.	1,542,700.00					1,542,700.00		
11181	Interco-Vandyk Commercial Co Inc.	20,600.00					20,600.00		
11183	Interco-2016855 Ontario Inc.	248.60					248.60		
11184	Interco-2423441 Ontario Inc.	135.60					135.60		
11185	Interco-2259602 Ontario Inc.	2,000.00					2,000.00		
11186	Interco-Vandyk Park 570 Limited		7,200.00						7,200.00
11187	Interco-Vandyk Highgrove Limited		50.00						50.00
11188	Interco-Buckingham South		1,247,017.35						1,247,017.35
11189	Interco-Vandyk Sunny Stable	23,000.00					23,000.00		
11190	Interco-1000318652		579,100.00						579,100.00
11191	Interco-Commercial CO Limited	11,000.00					11,000.00		
11199	Interco - Kay Family	4,931.51					4,931.51		
11202	Interco-The Ravine	700.00					700.00		

VANDYK-Backyard Kings Mill Limited

Report date 30-Sep-23

*** TRIAL BALANCE ***

Balances As Of 30-Sep-23

Account No.	Description	Opening Balance		Change This Period		Closing Balance	
		Debit	Credit	Debit	Credit	Debit	Credit
11203	Interco-2693536-Highgrove II	20,400.00				20,400.00	
11204	Interco-DXE East		365,400.00				365,400.00
11205	Interco-41 Wabash	2,500.00				2,500.00	
11206	Interco-1000079545		500.00				500.00
11210	Accounts Receivable - Trade		18,024,576.11				18,024,576.11
12111	WIP	28,764,823.23		20,478,407.00		49,243,230.23	
21120	Accounts Payable		15,062,897.22		1,159,561.67		16,222,458.89
21121	Accounts Payable-Manual				28,000.00		28,000.00
21134	MCAP Loan		34,330,788.36				34,330,788.36
21410	G.S. T. Input Credits	92,149.42		7,407.15		99,556.57	
21420	HST clearing account	293,451.03			138,538.48	154,912.55	
31120	Common Stock Issued		100.00				100.00
35500	Retained Earnings		0.00				0.00
41100	Sales - General		987.28	987.28			
71110	Cost of Goods Sold	16,384,815.09			16,384,815.09		
71113	Property tax expense	70,777.16			70,777.16		
32100	Advertising Expenses	250.00			250.00		
32140	Bank Charges Expense	2,328.41			2,328.41		
32289	Letter of credit fee	41,588.00			41,588.00		
32290	Interest Expense	480.52			480.52		
32292	MCAP Loan interest	2,001,644.97			2,001,644.97		
32315	Legal	103,746.45			103,746.45		
32316	Loan Admin Fee	53,500.00			53,500.00		
32380	Telephone Expense	682.59			682.59		
32381	Moneris fee	122.38			122.38		
32390	Utilities Expense	27,471.11			27,471.11		
32400	Office Wages & Salaries	417,825.14			417,825.14		
32401	WSIB	5,043.82			5,043.82		
32450	EHT Expense	1,263.85			1,263.85		
32900	Unallocated Expenses	231,339.13			231,339.13		
31100	Interest (Earned)		20,357.50	20,357.50			
	** TOTAL **	95,872,447.77	95,872,447.77	20,698,718.21	20,698,718.21	96,926,671.87	96,926,671.87

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*** END OF REPORT ***

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This is Exhibit "U" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



November 20, 2023

Via E-Mail

jeff.larry@paliarerland.com; daniel.rosenbluth@paliarerland.com

Jeff Larry
Daniel Rosenbluth

Paliare Roland Rosenberg Rothstein LLP
155 Wellington St West, 35th Floor
Toronto ON M5V 3H1

Heather Fisher
Direct +1 416 369 7202
Direct Fax +1 416 862 7661
heather.fisher@gowlingwlg.com
File no. T1033750

Dear Counsel:

Re: Vandyk - Backyard Kings Mill Limited (“Vandyk”)
Project: 15 Neighbourhood Lane, Toronto (“Project”)

As you know, we are counsel to MCAP. We write to you in respect of the property municipally known as 15 Neighbourhood Lane, Toronto (the “**Property**”).

Please provide us with a list of all of the steps undertaken by your client (and the date undertaken) to:

- 1) winterize the Property; and
- 2) secure the property from access by unauthorized parties.

If there are any outstanding steps that Vandyk intends to take in this regard, please advise of those steps and the date on which they will be completed.

Finally, can you please provide confirmation that all necessary steps to ensure the property is maintained have been taken and will continue to be taken.

Sincerely,

Gowling WLG (Canada) LLP

A handwritten signature in black ink that reads "H. Fisher".

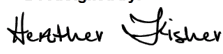
Heather Fisher
HF

cc: Haddon Murray

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This is Exhibit "V" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



Heather Fisher
 Direct : (416) 369-7202
 Heather.Fisher@gowlingwlg.com

October 4, 2023

PRIVATE AND CONFIDENTIAL

BY EMAIL & REGISTERED MAIL

VANDYK – BACKYARD KINGS MILL LIMITED

c/o Vandyk Communities
 1944 Fowler Drive
 Mississauga, ON
 L5K 0A1

Attention: Richard Ma
 Email: jvandyk@vandyk.com

JOHN C. VANDYK

1944 Fowler Drive
 Mississauga,
 ON
 L5K 0A1
 Email: jvandyk@vandyk.com

VANDYK-BACKYARD HUMBERSIDE LIMITED

1944 Fowler Drive
 Mississauga, ON
 L5K 0A1
 Email: jvandyk@vandyk.com

Re: MCAP Financial Corporation credit facilities extended to Vandyk – Backyard Kings Mill Limited, beneficially owned 100% by Vandyk-Backyard Humberside Limited, owned 100% by Vandyk Holdings Incorporated, owned 100% by John Vandyk (the “Borrower”), guaranteed by each of John Vandyk (the “Personal Guarantor”) and Vandyk-Backyard Humberside Limited (the “Corporate Guarantor”) (collectively, the “Guarantors”)

We are counsel to MCAP Financial Corporation (“**MCAP**”) (the “**Lender**”).

We are writing to you in connection with the Commitment Letter dated as of April 28, 2020 among the Borrower, as borrower, the Guarantors, as guarantors, and MCAP, as lender, was amended by a commitment letter amendment dated August 18, 2020 (“**Amendment No. 1**”) and as such Commitment Letter was further amended by a commitment letter amendment dated December 13, 2022 (“**Amendment No. 2**”) and as such Commitment Letter was further



amended by a commitment letter amendment dated June 19, 2023 (“**Amendment No. 3**”) and as such Commitment Letter was further amended by a commitment letter amendment dated September 12, 2023 (“**Amendment No. 4**”) (collectively, as modified, amended, supplemented, revised, restated, and replaced from time to time, the “**Commitment Letter**”).

Capitalized terms used herein and not otherwise defined have the meanings given to them in the Commitment Letter.

The Borrower is in default under the Commitment Letter and the other Credit Documents (as defined below). The existing and continuing defaults known to the Lender are listed in **Schedule “A”** to this letter.

According to MCAP’s records, the Borrowers are indebted or otherwise liable to MCAP for the amounts set out in **Schedule “B”** to this letter as of October 2, 2023 (the amount owing from time to time by the Borrowers to MCAP, not inclusive of interest that is accruing, disbursements or professional fees, the “**Indebtedness**”).

The Guarantors have each jointly and severally guaranteed the repayment of the Indebtedness pursuant to: (i) a guarantee and postponement of claim between MCAP and Vandyk-Backyard Humberside Limited dated as of July 7, 2020, which provided an unconditional guarantee (the “**Corporate Guarantee**”); and (ii) a guarantee and postponement of claim between MCAP and John C. Vandyk dated as of July 7, 2020, which provided a guarantee limited to \$40,000,000.00 (the “**Original Personal Guarantee**”, collectively, the “**Guarantees**”). The Original Personal Guarantee was subsequently increased to \$43,000,000.00 pursuant to the terms of Amendment No. 2 and was executed on January 10, 2023 (the “**Personal Guarantee**”).

MCAP hereby demands payment in full of the Indebtedness from the Borrower and the Guarantors. Interest on the Indebtedness has accrued and will continue to accrue to the date of payment at the rate set out in the Commitment Letter and the other Credit Documents, as applicable. The exact amount of the Indebtedness and interest which will have accrued to any date of payment shall be obtained by contacting MCAP. You will also be required to pay MCAP’s legal and other expenses in connection with the Indebtedness.

The Loan matured on August 1, 2023 and is due and payable. This letter constitutes a demand for payment under the terms and conditions of the Commitment Letter and the terms and conditions of all security held by MCAP directly or indirectly for any of the Indebtedness, including all loan agreements, promissory notes, the Guarantees and other agreements governing the Indebtedness (collectively, the “**Credit Documents**”), and is made without prejudice to (a) MCAP’s right to make such further and other demands as it shall see fit for any other indebtedness or under any other security, and (b) MCAP’s right to provide further and other notices of default.

Unless payment or arrangements satisfactory to MCAP for payment of the Indebtedness are made by no later than **4:00 p.m. on October 16, 2023** (Toronto time), MCAP may take any further steps that it deems necessary to recover payment of the Indebtedness. These steps may include (i) the enforcement of its security by way of the appointment of an interim receiver, court appointed receiver and manager, a private receiver and manager, or an agent under its security; and (ii) the enforcement of any real property security by way of rights of power of sale. MCAP expressly reserves the right to take any steps it deems advisable to protect MCAP’s position prior to that date.



We also enclose a notice of intention to enforce security issued by MCAP under Section 244 of the *Bankruptcy and Insolvency Act* (Canada) for each of the Borrowers.

MCAP expressly reserves its rights and remedies with respect to any defaults that shall now exist or hereafter arise under the Commitment Letter and the other Credit Documents.

Yours very truly,

GOWLING WLG (CANADA) LLP

A handwritten signature in black ink, appearing to read "H. Fisher", written over a light grey rectangular background.

per Heather Fisher



SCHEDULE "A"

DEFAULTS

The Borrower is in default under the Commitment Letter for, among other things, having:

1. failed to repay the loan upon the Maturity Date;
2. failed to use funds advanced under Credit Facility for the purpose of completing the construction of the Project and no other purpose;
3. permitted construction liens to be registered on title as follows:
 - a. on August 25, 2023, Dircam Electric Limited registered a construction lien on title to the Real Property as Instrument No. AT6407063;
 - b. on August 29, 2023, Dircam Electric Limited registered a construction lien on title to the Real Property as Instrument No. AT6408162; and
 - c. on September 20, 2023, Plyon Forming Ltd. registered a construction lien on title to the Real Property as Instrument No. AT6424435;
 - d. on September 22, 2023, Viola Ready Mix Inc. registered a construction lien on title to the Real Property as Instrument No. AT6426188; and
 - e. on September 26, 2023, Myer Salit Limited registered a construction lien on title to the Real Property as Instrument No. AT6427885 (collectively, the "**Construction Liens**").
4. failed to discharge the Construction Liens;
5. failed to inject additional equity into the Project once cost overruns were identified and presented to the Borrower;
6. failed to pay invoices issued by Westmount Guarantee Services Inc. totaling \$133,667 representing insurance premiums due and owing under the Borrower's Excess Deposit Insurance policy;
7. delivering false Certificate of Advance by Richard Ma, an authorized signing officer of the Borrower declaring that all funds advanced to the Borrower were used in the Project and paid to the parties for whom they were directed in payment of goods and services delivered and provided to the Project and/or fees incurred in connection with the Project;

- 2 -

8. failing to pay property taxes for the months of July, August, and September;
9. there has been material adverse change in the financial condition of the Borrower and the Guarantors, as evidenced, *inter alia*, by the defaults listed in subsections 1 to 9 above; and
10. failed to deliver to MCAP a binding Commitment Letter from Windsor Private Capital ("**WPC**") for subordinated mezzanine financing in the amount of no less than \$7,000,000.

- 3 -

SCHEDULE "B"**Amount of Indebtedness Owing as of October 2, 2023**

Principal Balance Outstanding	\$34,330,788.36
Accrued Interest to : October 2, 2023	\$536,500.87
Other Charges : Late Interest	\$2,161.34
Discharge Fees	\$500.00
Amendment Fee	\$735,277.00
L/C Fees:	\$0.00
Cash Requirement to Collateralize Letters of Credit	\$2,038,499.84
Per diem rate of interest	\$ 8,786.28
Total Amount	\$37,643,727.41

- 4 -

BANKRUPTCY AND INSOLVENCY ACT**FORM 86****Notice of Intention to Enforce Security
(Rule 124)****TO: VANDYK – BACKYARD KINGS MILL LIMITED**

Take notice that:

1. **MCAP FINANCIAL CORPORATION**, a secured creditor, intends to enforce its security against the following property of the insolvent persons listed above:

All of the property, assets, and undertaking charged by the security described in paragraph 2 of this Notice.

2. The security that is to be enforced is in the form of:

See Schedule "A".

3. The total amount of indebtedness secured by the security as of October 2, 2023 is:

See Schedule "B".

4. The secured creditor will not have the right to enforce the security until after the expiration of the ten (10) day period after this notice is sent unless the insolvent person(s) each consent to an earlier enforcement.

DATED at Toronto this 4th day of October, 2023**MCAP FINANCIAL CORPORATION
BY ITS COUNSEL
GOWLING WLG (CANADA) LLP**

Per:



Heather Fisher



SCHEDULE "A"

SECURITY DOCUMENTS

1. Charge/Mortgage against the lands relating to PIN 07500-0082 (LT), in the principal amount of \$104,500,000.00 granted by Vandyk-Backyard Kings Mill Limited and registered on November 26, 2020 under instrument number AT5581120 (the "**Mortgaged Property**");
2. Guarantee and Postponement of Claim from John C. Vandyk in the amount of \$40,000,000.00 plus interest and expenses, in favour of MCAP in respect of all indebtedness, liabilities and obligations of the Borrower;
3. Guarantee and Postponement of Claim from Vandyk-Backyard Humberside Limited in favour of MCAP in respect of all indebtedness, liabilities and obligations of the Borrower;
4. General Security Agreement executed by Vandyk-Backyard Kings Mill Limited in favour of MCAP creating a first ranking security interest in all present and after-acquired personal property of Vandyk-Backyard Kings Mill Limited;
5. Share Pledge Agreement from Vandyk-Backyard Kings Mill Limited in favour of MCAP in respect of all indebtedness, liabilities and obligations of the Borrower;
6. Comprehensive General Wrap Up Liability Insurance policy for the Mortgaged Property in an amount not less than \$10,000,000.00 per occurrence, which must reference the Mortgaged Property and MCAP is to be added as an additional insured;
7. Builder's Risk Insurance, which is satisfactory to MCAP for at least \$68,000,000.00 which incorporates a standard mortgage clause and which names MCAP as first mortgagee and loss payee;
8. Indemnity Agreement executed by Vandyk-Backyard Kings Mill Limited dated as of July 7, 2020 in respect to any Letters of Credit issued pursuant to the Commitment Letter;
9. In the event MCAP elects to hold on deposit the Borrower's cash (the "Cash Collateral Account") or term deposits, GICs or the like, from other financial institutions, to secure the Loan Facility generally or specifically the outstanding Letter of Credit exposure, a specific assignment or charge over the cash, term deposit, GIC, as the case may be, will be required;
10. First assignment of all condominium voting rights upon registration of the units in the Mortgaged Property, exercise able only in the Event of Default
11. Deposit Insurer to provide a Letter of Undertaking confirming that the Deposit Insurer shall execute and deliver to MCAP, a free partial discharge of its mortgage in respect of any

- 6 -

condominium unit comprising part of the Mortgaged Property, together with its appurtenant common interests, on or before the final closing of the unit sale transaction between the Borrower and the purchaser of any such unit, with payments by the Borrower to MCAP as described under the Partial Discharge Section. The Borrower shall be responsible for all legal costs required for the preparation of the requested discharge.

- 12.** Postponement Agreement with an acceptable Deposit Insurer, regarding injection of purchaser deposit and security to be taken. It is acknowledged that the Deposit Insurer will require a first charge on purchaser deposits, however, any mortgage security will be fully postponed. In addition, the Deposit Insurer agrees to provide free partial discharges in respect to the units in the Project regardless of default. The said postponement shall also confirm that the Deposit Insurer will subordinate to all additional advances which may be required to fund any cost overruns over and above the authorized facilities.
- 13.** Beneficial Owners Agreement wherein the BO directs the registered owner to provide security to MCAP and consents to same
- 14.** Negative Pledge by Borrower and Guarantor dated July 7, 2020 to not repay any shareholder loans, redeem shares, pay out dividends or increase compensation to principals of Borrower or Guarantors until the Loan Facility has been fully repaid;
- 15.** All other security granted to MCAP and not otherwise listed above.



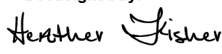
SCHEDULE "B"

Amount of Indebtedness Owing as of October 2, 2023

Principal Balance Outstanding	\$34,330,788.36
Accrued Interest to : October 2, 2023	\$536,500.87
Other Charges : Late Interest	\$2,161.34
Discharge Fees	\$500.00
Amendment Fee	\$735,277.00
L/C Fees:	\$0.00
Cash Requirement to Collateralize Letters of Credit	\$2,038,499.84
Per diem rate of interest	\$ 8,786.28
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Total Amount	\$37,643,727.41

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This is Exhibit "W" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

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Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



200 King Street West, Suite 400
Toronto, Ontario, M5H 3T4
Tel 416 598-2665

1 800 387-4405
www.mcap.com

November 22, 2023

Gowlings WLG (Canada) LLP
1 First Canadian Place, 100 King Street West, Suite 1600
Toronto, Ontario
M5X 1G5

Attention to: Susan Rosen

Payout Date: November 23, 2023

INFORMATION STATEMENT

Mortgage No. 19-6493-T41	This Statement is Valid Until: November 30, 2023	
Maturity Date August 1, 2023	Bank Prime Rate: Royal Bank Prime	Margin: RB Prime + 2.00% or min of 5.70%
Borrower Name: Vandyk-Backyard Kings Mill Limited	Property Address: 15 Neighbourhood Lane, Etobicoke, ON	

Principal Balance Outstanding		\$34,330,788.36
Accrued Interest to : <u>November 23, 2023</u>		\$986,469.34
Other Charges:	Late Interest	\$10,566.84
	Discharge Fees:	\$500.00
	Amendment Fee:	\$585,277.00
	L/C Fees:	\$0.00
	Cash Requirement to Collateralize Letters of Credit:	\$2,038,499.84
Per diem rate of interest: <u>\$ 8,853.89</u>		
Total Amount		\$37,952,101.38

The full principal amount together with interest, fees and any applicable per diem rate of interest must be received in full in order to obtain a discharge of mortgage.

The above statement is calculated assuming all payments due up to and including the date of discharge are made under the terms of our contract and honoured by the bank

We request that discharge proceeds be wired or direct deposited into MCAP's account. Funds received after 2:30 PM shall be deemed to have been made and received on the next business day and MCAP Financial Corporation shall be entitled to the additional per diem interest.

Direct Deposits or Wired Discharge Funds are to be delivered to the following account:

Account Holder: MCAP Financial Corporation
200 King Street West, Suite 400, Toronto, Ontario, M5H 3T4
Bank: Bank of Montreal
100 King Street West, Toronto, Ontario, M5X 1A3
Bank Number: 001
Transit Number: 00022
Account Number: 1357-893
Swift Number: BOFMCAM2

Confirmation from the Borrower or its Counsel of wired or direct deposit of funds must be sent via electronic mail to TOFunding@MCAP.com in order to ensure the application on funds on the appropriate business date. Confirmations are reference the loan number and include information regarding the project name, wired amount, deposit slip and lot/unit closing(s).

Any legal and/or other costs of providing the discharge are in addition to the amount stipulated in the above statement and shall be borne by the Borrower.

This statement is subject to changes to the Bench Mark Rate. Changes to the Bench Mark Rate may result in additional funds due at the time of closing. Kindly consult with the undersigned to ensure the validity of the total discharge amount due.

Prepared By: Katie Lee

Katie Lee
Funding Manager

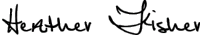
Authorized by: Philip Frank

Philip Frank
Sr. Director

E. & O.E.

DocuSign Envelope ID: 8F951BA7-1F12-41CB-A97D-FE86FF15DCF0

This is Exhibit "X" referred to in the Affidavit of Michael Misener sworn by Michael Misener of the City of Burlington, in the Regional Municipality of Halton, before me at the City of Toronto, in the Province of Ontario, on November 24, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER

Court File No. CV-23- 00710267-00CL

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

B E T W E E N:

MCAPI FINANCIAL CORPORATION

Applicant

and

VANDYK-BACKYARD KINGS MILL LIMITED

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O 1990, C.C.43, AS AMENDED; AND SECTION 68 OF THE CONSTRUCTION ACT, R.S.O. 1990, c. C.30

CONSENT TO ACT

KSV Restructuring Inc., hereby consents to act as receiver, manager, and construction lien trustee, over all property, assets and undertakings of Vandyk-Backyard Kings Mill Limited, in accordance with an order substantially in the form of the receivership order sought and included in the Application Record of MCAPI Financial Corporation.

DATED AT Toronto, this 24th day of November, 2023.

KSV RESTRUCTURING INC.



Per: Noah Goldstein
Title: Managing Director

MCAP Financial Corporation
Applicant

-and-

Vandyk-Backyard Kings Mill Limited
Respondent

Court File No. CV-23-
00710267-00CL

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

PROCEEDING COMMENCED AT
TORONTO

CONSENT TO ACT

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

C. Haddon Murray (61640P)
haddon.murray@gowlingwlg.com
Tel: 416-862-3604

Heather Fisher (75006L)
heather.fisher@gowlingwlg.com
Tel: 416-369-7202

Lawyers for the Applicant

File Number: T1033750

MCAP Financial Corporation
Applicant

-and-

Vandyk-Kings Mill
Respondent

Court File No. CV-23-00710267-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**AFFIDAVIT OF MICHAEL MISENER
SWORN NOVEMBER 24, 2023**

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

C. Haddon Murray (61640P)

haddon.murray@gowlingwlg.com
Tel: 416-862-3604

Heather Fisher (75006L)

heather.fisher@gowlingwlg.com
Tel: 416-369-7202

Lawyers for the Applicant

File Number: T1033750

Court File No. CV-23-00710267-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	MONDAY, THE 11 th
)	
JUSTICE PENNY)	DAY OF DECEMBER 2023

MCAP FINANCIAL CORPORATION

Applicant

- and -

VANDYK-BACKYARD KINGS MILL LIMITED

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O 1990, C. C.43, AS AMENDED; AND SECTION 68 OF THE CONSTRUCTION ACT, R.S.O. 1990, c. C.30

ORDER
(appointing Construction Receiver)

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing KSV Restructuring Inc. ("KSV") as receiver and manager pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the "CJA") (in such capacity, the "Receiver") without security, and Construction Lien Trustee, pursuant to section 68 of the *Construction Act*, R.S.O. 1990, c. C.30 (the "Construction Act") (in such capacity, the "Construction Lien Trustee", collectively with the Receiver, the "Construction Receiver"), without security, over all property, assets and undertakings of

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Vandyk-Backyard Kings Mill Limited ("Vandyk-Kings Mill" or the "Debtor") acquired for or used in relation to the Debtor's business and the Project (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Misener sworn November 24, 2023 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel for the Respondent, counsel for KSV, and those other parties listed on the counsel slip, no one else appearing although duly served as appears from the affidavit of service of Heather Fisher sworn November 24, 2023 and on reading the consent of KSV to act as the Construction Receiver,

SERVICE

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

APPOINTMENT OF RECEIVER

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

APPOINTMENT OF CONSTRUCTION LIEN TRUSTEE

3. THIS COURT ORDERS that pursuant to section 68 of the Construction Act, KSV is hereby appointed Construction Lien Trustee (collectively with the Receiver, the Construction Receiver), without security, of the Property of the Debtor.

CONSTRUCTION RECEIVER'S POWERS

4. THIS COURT ORDERS that the Construction Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Construction Receiver is hereby

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expressly empowered and authorized to do any of the following where the Construction Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Construction Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;

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- (h) to deal with any lien claims, trust claims, and trust funds that have been or may be registered or which arise in respect of the Property, including any part or parts thereof, and to make any required distribution(s) to any contractor or subcontractor of the Debtor or to or on behalf of any beneficiaries of any such trust funds pursuant to section 85 of the Construction Act;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Construction Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Construction Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Construction Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - i. without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and

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- ii. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Construction Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Construction Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Construction Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;

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- (s) to exercise the powers provided by section 68(2) of the Construction Act; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE CONSTRUCTION RECEIVER

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

6. THIS COURT ORDERS that all Persons shall forthwith advise the Construction Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Construction Receiver or permit the Construction Receiver to make, retain and take away copies thereof and grant to the Construction Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in

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paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Construction Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

8. THIS COURT ORDERS that the Construction Receiver shall provide each of the relevant landlords with notice of the Construction Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Construction Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Construction Receiver, or by further Order of this Court upon application by the Construction Receiver on at least two (2) days notice to such landlord and any such secured creditors.

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NO PROCEEDINGS AGAINST THE CONSTRUCTION RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Construction Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE CONSTRUCTION RECEIVER

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

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CONTINUATION OF SERVICES

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Construction Receiver, and that the Construction Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Construction Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Construction Receiver, or as may be ordered by this Court.

CONSTRUCTION RECEIVER TO HOLD FUNDS

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

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EMPLOYEES

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

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. THIS COURT ORDERS that nothing herein contained shall require the Construction Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might

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

LIMITATION ON THE CONSTRUCTION RECEIVER'S LIABILITY

18. THIS COURT ORDERS that the Construction Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Construction Receiver by section 14.06 of the BIA or by any other applicable legislation.

CONSTRUCTION RECEIVER'S ACCOUNTS

19. THIS COURT ORDERS that the Construction Receiver and counsel to the Construction 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 Construction Receiver and counsel to the Construction Receiver shall be entitled to and are hereby granted a charge (the "Construction Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these

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proceedings, and that the Construction Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.¹

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

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

FUNDING OF THE RECEIVERSHIP & CONSTRUCTION LIEN TRUSTEESHIP

22. THIS COURT ORDERS that the Construction Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Construction Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Construction Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges

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and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Construction Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

25. THIS COURT ORDERS that the monies from time to time borrowed by the Construction Receiver pursuant to this Order or any further order of this Court and any and all Construction Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Construction Receiver's Certificates.

SERVICE AND NOTICE

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

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Construction Receiver is at liberty to

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serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

30. 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 Construction 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 Construction Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Construction Receiver and its agents in carrying out the terms of this Order.

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

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32. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Construction Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

SCHEDULE "A"

CONSTRUCTION RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc. ("KSV"), the receiver, manager and construction lien trustee (the "Construction Receiver") of the assets, undertakings and properties of Vandyk-Backyard Kings Mill Limited ("Vandyk-Kings Mill") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 11th day of December, 2023 (the "Order") made in an action having Court file number CV-23-00710267-00CL, has received as such Construction Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Construction Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the _____ day of _____, 20__.

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

Per: _____
Name:
Title:

MCAP Financial Corporation
Applicant

-and- Vandyk-Backyard Kings Mill Limited
Respondent

Court File No. CV-23-00710267-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(Appointing Construction Receiver)**

GOWLING WLG (CANADA) LLP

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Lawyers for the Applicant

File Number: T1033750

Revised: January 21, 2014
s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver

Court File No. — CV-23-00710267-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) ~~WEEKDAY~~MONDAY, THE #11th
))
JUSTICE — PENNY) DAY OF ~~MONTH~~,DECEMBER
) 20YR2023

~~PLAINTIFF~~¹

~~Plaintiff~~

MCAP FINANCIAL CORPORATION

Applicant

- and -

~~DEFENDANT~~

~~Defendant~~

VANDYK-BACKYARD KINGS MILL LIMITED

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O 1990, C. C.43, AS AMENDED; AND SECTION 68 OF THE
CONSTRUCTION ACT, R.S.O. 1990, c. C.30

ORDER
(appointing Receiver)

¹ ~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

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THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~²Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~KSV Restructuring Inc. ("KSV") as receiver ~~[and manager]~~ pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the "CJA") (in such ~~capacities~~capacity, the ~~"Receiver"~~) without security, ~~of~~and Construction Lien Trustee, pursuant to section 68 of the *Construction Act*, R.S.O. 1990, c. C.30 (the "Construction Act") (in such capacity, the "Construction Lien Trustee", collectively with the Receiver, the "Construction Receiver"), without security, over all ~~of the~~property, assets, and undertakings ~~and properties of~~ ~~[DEBTOR'S NAME]~~(of Vandyk-Backyard Kings Mill Limited ("Vandyk-Kings Mill" or the "Debtor")) acquired for, or used in relation to at the Debtor's business ~~carried on by~~and the ~~Debtor~~Project (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~Michael Misener sworn ~~[DATE]~~November 24, 2023 and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~the Applicant, counsel for the Respondent, counsel for KSV, and those other parties listed on the counsel slip, no one else appearing ~~for [NAME]~~ although duly served as appears from the affidavit of service of ~~[NAME]~~Heather Fisher sworn ~~[DATE]~~November 24, 2023 and on reading the consent of ~~[RECEIVER'S NAME]~~KSV to act as the Construction Receiver,

SERVICE

1. THIS COURT ORDERS that, if necessary, the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application is hereby abridged and validated³ so that

²-Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

³-If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.

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this ~~motion~~Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT OF RECEIVER

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~KSV is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

APPOINTMENT OF CONSTRUCTION LIEN TRUSTEE

3. THIS COURT ORDERS that pursuant to section 68 of the Construction Act, KSV is hereby appointed Construction Lien Trustee (collectively with the Receiver, the Construction Receiver), without security, of the Property of the Debtor.

CONSTRUCTION RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

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- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Construction Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to deal with any lien claims, trust claims, and trust funds that have been or may be registered or which arise in respect of the Property, including any part or parts thereof, and to make any required distribution(s) to any contractor or subcontractor of the Debtor or to or on behalf of any beneficiaries of any such trust funds pursuant to section 85 of the Construction Act;
- (i) ~~(h)~~ to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Construction Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;

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- (j) ~~(i)~~ to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Construction Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) ~~(j)~~ to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Construction Receiver in its discretion may deem appropriate;
- (l) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
- i. ~~(j)~~ without the approval of this Court in respect of any transaction not exceeding \$ 50,000, provided that the aggregate consideration for all such transactions does not exceed \$ 100,000; and
- ii. ~~(k)~~ with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*,~~†~~ or section 31 of the Ontario *Mortgages*

⁴ ~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

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Act, as the case may be,⁵ shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply;~~

- (m) ~~(h)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Construction Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Construction Receiver deems advisable;
- (o) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) ~~(o)~~ to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Construction Receiver, in the name of the Debtor;
- (q) ~~(p)~~ to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) ~~(q)~~ to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (s) to exercise the powers provided by section 68(2) of the Construction Act;
and

⁵ ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

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- (t) ~~(+)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE CONSTRUCTION RECEIVER

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

6. ~~5.~~ THIS COURT ORDERS that all Persons shall forthwith advise the Construction Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Construction Receiver or permit the Construction Receiver to make, retain and take away copies thereof and grant to the Construction Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph ~~56~~ or in paragraph ~~67~~ of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the

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Construction Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

8. ~~7.~~ THIS COURT ORDERS that the Construction Receiver shall provide each of the relevant landlords with notice of the Construction Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Construction Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Construction Receiver, or by further Order of this Court upon application by the Construction Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE CONSTRUCTION RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

10. ~~9.~~ THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Construction Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE CONSTRUCTION RECEIVER

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

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CONTINUATION OF SERVICES

13. ~~12.~~ THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Construction Receiver, and that the Construction Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Construction Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Construction Receiver, or as may be ordered by this Court.

CONSTRUCTION RECEIVER TO HOLD FUNDS

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

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EMPLOYEES

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

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. ~~16.~~ THIS COURT ORDERS that nothing herein contained shall require the Construction Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that

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

LIMITATION ON THE CONSTRUCTION RECEIVER'S LIABILITY

18. ~~17.~~ THIS COURT ORDERS that the Construction Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Construction Receiver by section 14.06 of the BIA or by any other applicable legislation.

CONSTRUCTION RECEIVER'S ACCOUNTS

19. ~~18.~~ THIS COURT ORDERS that the Construction Receiver and counsel to the Construction 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 Construction Receiver and counsel to the Construction Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements,

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both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.⁶¹

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

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

FUNDING OF THE RECEIVERSHIP & CONSTRUCTION LIEN TRUSTEESHIP

22. ~~21.~~ THIS COURT ORDERS that the Construction Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~_____~~500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Construction Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed,

⁶ ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

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together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

25. ~~24.~~ THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Construction Receiver's Certificates.

SERVICE AND NOTICE

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

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

GENERAL

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

29. ~~28.~~ THIS COURT ORDERS that nothing in this Order shall prevent the Construction Receiver from acting as a trustee in bankruptcy of the Debtor.

30. ~~29.~~ 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 Construction 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 Construction Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Construction Receiver and its agents in carrying out the terms of this Order.

31. ~~30.~~ THIS COURT ORDERS that the Construction Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Construction Receiver is

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authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. ~~31.~~ THIS COURT ORDERS that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~Application, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~Applicant's security or, if not so provided by the ~~Plaintiff~~Applicant's security, then on a substantial indemnity basis to be paid by the Construction Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

DOCSTOR-17717428

SCHEDULE "A"

CONSTRUCTION RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ KSV Restructuring Inc. ("KSV"), the receiver, manager and construction lien trustee (the "Construction Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of Vandyk-Backyard Kings Mill Limited ("Vandyk-Kings Mill") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the —11th day of —December, ~~20—~~ 2023 (the "Order") made in an action having Court file number —CV-23-00710267-00CL—, has received as such Construction Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Construction Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

~~[RECEIVER'S NAME]~~ KSV Restructuring Inc., solely in its capacity
as Construction Receiver of the Property,
and not in its personal capacity

Per: _____

Name:

Title:

MCAP Financial Corporation
Applicant

-and- Vandyk-Backyard Kings Mill Limited
Respondent

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Appointing Receiver)

GOWLING WLG (CANADA) LLP

Barristers & Solicitors

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File Number: T1033750

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Format changes	0
Total changes	368

MCAP Financial Corporation

- and - Vandyk-Backyard Kings Mill Limited

Applicant

Respondent

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

PROCEEDING COMMENCED AT
TORONTO

APPLICATION RECORD

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File Number: T1033772