

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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43,  
as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act,  
R.S.C. 1985, c. B-3, as amended*

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

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

- and -

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

**SUPPLEMENT TO THE FIRST REPORT OF THE RECEIVER  
March 4, 2024**

**TABLE OF CONTENTS**

INDEX OF APPENDICES..... 1

INTRODUCTION ..... 2

PURPOSE OF REPORT..... 2

TERMS OF REFERENCE ..... 3

RECEIVER’S NAME CHANGE..... 3

TA APPLIANCES ..... 3

COMMUNICATIONS WITH LIEN CLAIMANTS AND TRUST CLAIMANTS ..... 6

PROPOSED AMENDMENTS TO THE DRAFT ORDERS..... 6

## INDEX OF APPENDICES

<b>Appendix</b>	<b>DOCUMENT</b>
“A”	Substitution Order dated March 1, 2024
“B”	Independent Security Opinion
“C”	TA’s February 29, 2024 Letter, Default Judgment and Supply Contract
“D”	Letter from Classic Tile dated March 3, 2024
“E”	Letter from Receiver to Classic Tile dated March 4, 2024
“F”	Letter from Plycon Forming dated February 12, 2024
“G”	Letter from Receiver to Plycon Forming dated March 1, 2024
“H”	Email from Plycon Forming dated March 4, 2024 (without attachments)
“I”	Email from Robins Appleby LLP to Classic Tile dated March 4, 2024
“J”	Amended Ancillary Order and redline to version previously served
“K”	Amended Liens Claim Process Order and redline to version previously served

## **INTRODUCTION**

1. This report (the “**Supplemental Report**”) is filed by TDB Restructuring Limited (“**TDB**”) (formerly RSM Canada Limited) in its capacity as Court-appointed receiver of the unsold condominium units, parking units, and storage lockers (collectively, the “**Unsold Units**”) constituting property of Vandyk-Backyard Queensview Limited (“**Backyard**”) and Vandyk-Backyard Humberside Limited (together with the Debtor, the “**Debtors**”).
2. The Supplemental Report is a supplement to the First Report of the Receiver dated February 27, 2024, and which was filed by the Receiver in support of its motion returnable March 6, 2024. Any capitalized terms not defined herein have the meanings given to them in the First Report.

## **PURPOSE OF REPORT**

3. The purpose of this Supplemental Report is to:
  - (a) report to the Court on the renaming of TDB as Receiver, effective March 1, 2024, which involves the same individuals having carriage of the receivership;
  - (b) update the Court on communications and correspondence between the Receiver and certain parties that has occurred following service of the First Report up to the time this Supplemental Report is being finalized (the evening of March 4, 2024), which includes TA in respect of certain Appliances, and various Lien Claimants and trust claimants; and
  - (c) report to the Court on revisions to the Receiver’s proposed Orders, including as a result of discussions with various parties.

## TERMS OF REFERENCE

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

## RECEIVER’S NAME CHANGE

6. On February 1, 2024, RSM Canada Limited rebranded and legally changed its name to TDB Restructuring Limited.
7. On March 1, 2024, Justice Conway of the Ontario Superior Court of Justice (Commercial List) granted an omnibus Order (the “**Substitution Order**”) substituting the name TDB Restructuring Limited for the Receiver in respect of, among other matters, this receivership proceeding as listed on Schedule “B” thereto. Copies of the Substitution Order and the OSB Certificate of Filing for this matter are attached as **Appendix “A”** to this Supplemental Report.

## TA APPLIANCES

8. As set out in the First Report, TA asserts a priority right to certain Appliances supplied and installed in the Unsold Units, including the right to repossess the Appliances.

9. Based on PPSA searches conducted by the Receiver's counsel, TA does not have a perfected security interest in the Appliances. The Receiver obtained a legal opinion from its independent counsel, Loopstra Nixon LLP ("**Loopstra Nixon**"), indicating that Peoples holds a first priority perfected security interest in all personal property of the Debtors located at 25 Neighbourhood Lane, Toronto. A copy of the Loopstra Nixon legal opinion is attached as **Appendix "B"** to this Supplemental Report.
10. Pursuant to letters addressed to the Receiver's counsel delivered on February 27 and 29, 2024, counsel to TA has set forth a number of arguments in support of its position. The Receiver also requested and received a copy of the default Judgment obtained by TA against the Debtors, and a copy of the contract dated February 11, 2021 (the "**TA Supply Contract**") between the Debtors and TA regarding the purchase and installation of 134 sets of Appliances, including those relating to the Unsold Units over which the Receiver was appointed. Copies of the February 29, 2024 letter, the default Judgment and the TA Supply Contract are attached as **Appendix "C"** to this Supplemental Report.
11. The Receiver notes the following in respect of the TA Supply Contract:
  - (a) it appears to be on the Debtors' standard form construction contract, with appendices that include all of the schedules that are typical for construction contracts and terms that include a provision for invoices to be delivered to the Construction Manager for the Condominium Building and for TA to provide evidence of Commercial Liability Insurance naming Backyard and the Construction Manager as "Additional Insureds";
  - (b) it describes TA as the "Contractor" throughout;
  - (c) it provides for a holdback of 10% on the installation portion of the TA Supply Contract only, and not the cost of the Appliances, and states that it is subject in all respects to the Construction Act;
  - (d) it states that the installation cost for the 134 units is \$235 per unit, for a total installation cost of \$31,490 (to which a 10% holdback relates); and

- (e) there is no reservation of title or similar language in favour of TA with respect to the Appliances delivered pursuant to the TA Supply Contract.
12. The Receiver has confirmed with counsel that TA did not register a lien in respect of its claim at any time.
  13. Based on the foregoing, the Receiver's preliminary view is that TA does not have claim to priority (whether in respect of the First Mortgage or the Lien Claimants) to any proceeds of sale of the Unsold Units, including in respect of any Appliances that may be located therein.
  14. The materials filed by the Applicants and the Receiver in support of the Appointment Order confirmed that the interest of any parties with PPSA registrations against the Debtor would not be affected by the appointment of the Receiver over the Unsold Units. As outlined in the First Report, no PPSA registrations in favour of any secured party relate to property that may form part of the Unsold Units other than one registration in respect of which a "no interest" letter was provided.
  15. Given the recent exchange of correspondence with counsel for TA and the fact that the Receiver's independent counsel will be responding further to counsel for TA on this matter, the Receiver has advised TA that it is prepared to hold net proceeds in the amount of \$4,000 from the sale of Unit 302 for which a Vesting Order is sought (an amount suggested by TA), to permit a motion on a full record to be before the Court. The Receiver understands that such an arrangement is acceptable to TA. That motion will be scheduled to coincide with the next court attendance where a future Vesting Order will be sought. Counsel for TA has been requested to deliver their motion record within one week, to allow all parties who wish to respond (which may include the First Mortgagee, the title insurer and the Lien Claimants) to respond to the claim for priority.
  16. The Receiver's independent counsel is addressing TA's claim to priority in respect of the Appliances.

## **COMMUNICATIONS WITH LIEN CLAIMANTS AND TRUST CLAIMANTS**

17. Since serving the First Report, the Receiver has received ongoing communications from counsel to various Lien Claimants and trust claimants and it, and Robins Appleby LLP<sup>1</sup>, have provided responses to same. For the benefit of the Court, annexed hereto and marked as Appendices “D”, “E”, “F”, “G”, “H” and “I” are copies of communications from and to counsel for various Lien Claimants.
18. The Receiver has had communications with counsel for 2164705 Ontario o/a Sitescape, a Lien Claimant, pursuant to which the Receiver determined that the Maximum Holdback Amount set out in the Ancillary Order was undercalculated by approximately \$10,000 due to the amount of the statutory claim of 2164705 Ontario o/a Sitescape not including the applicable HST.
19. Since serving the First Report, the Receiver has received requests to extend the Claims Bar Date by which Lien Claimants must deliver all documents in support of their claim to May 1, 2024. The Receiver has advised that it supports the amendment to the Claims Bar Date, and it does not believe such an extension will prejudice any party.

## **PROPOSED AMENDMENTS TO THE DRAFT ORDERS**

20. Following discussions with counsel for various parties, the Receiver proposes amendments to two of the draft Orders it is seeking, as set out below:
  - (a) the Ancillary Order has been amended to:
    - (i) provide that the Receiver shall set aside \$4,000 of the Net Proceeds to be received from the sale of Unit 302 in respect of the Appliances, pending determination of TA’s priority claim to same to be heard at the next regularly-scheduled court attendance;

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<sup>1</sup> As counsel retained by Chicago Title Insurance Company to act as counsel for Peoples Trust Company and Fim Capital Corporation as it relates to the construction lien priority issues.



- (ii) revise the Maximum Holdback Amount from \$1,970,017.11 to \$1,979,540.34 to reflect the HST on one contract;
  - (b) the Lien Claims Process Order is amended to:
    - (i) move the Claims Bar Date from April 1, 2024 to May 1, 2024;
    - (ii) rather than have the Receiver determine the most efficient and cost-effective process for having the Claims determined (the “**Process**”), the Receiver shall make a recommendation to the Court regarding the Process after consulting with counsel for the interested parties on the Service List;
    - (iii) the Receiver’s recommendation at (ii) above shall be on notice to all interested parties, who will have an opportunity to make submissions on any aspect of the Receiver’s recommendation;
    - (iv) the Lien Claims Process Order, the Process and the participation in same will be without prejudice to the rights of the Lien Claimants to commence or continue claims (the “**Lien Proceedings**”) against any person save and except for the Receiver and the Applicants (for payments received pursuant to any Order issued in this proceeding) with respect to the issues of the Lien Claimants’ priority over any other party on any legal basis; and
    - (v) there shall be no requirement for any defendant in any Lien Proceeding brought by any of the Lien Claimants in respect of the Claims to deliver a Statement of Defence in that action pending further Order of this Court as to the process to be implemented for the determination of the Claims of Lien Claimants, as contemplated by the Process.
21. Copies of the Ancillary Order and the Lien Claims Process Order, and corresponding redlines to the versions previously served by the Receiver, are attached as **Appendices “J”** and “**K**” hereto.

All of which is respectfully submitted this 4th day of March, 2024.

**TDB RESTRUCTURING LIMITED**, solely in its capacity as  
Court-appointed Receiver of the Unsold Units,  
and not in its personal or corporate capacity

Per: *Bryan A. Tannenbaum*

Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT  
Managing Director

# Appendix A

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MADAM ) FRIDAY, THE 1<sup>ST</sup>  
 )  
JUSTICE CONWAY ) DAY OF MARCH, 2024  
 )

B E T W E E N:

**TDB RESTRUCTURING LIMITED**

Applicant

and

**RSM CANADA OPERATIONS ULC**

Respondent

APPLICATION UNDER Rule 14.05(3)(h) of the *Rules of Civil Procedure*

**SUBSTITUTION ORDER**

**THIS APPLICATION** made by TDB Restructuring Limited (“**TDB**”) for an order, among other things, substituting the name of RSM Canada Limited with the name TDB Restructuring Limited on the Substituted Mandates (as defined below), was heard this day by way of judicial video conference in Toronto, Ontario by Zoom videoconference

**ON READING** the Application Record of TDB, including the Affidavit of Bryan A. Tannenbaum sworn February 27, 2024, together with the exhibits attached thereto (the “**Affidavit**”), and on hearing the submissions of counsel for TDB, no one else appearing, although served as evidenced by the Affidavit of Service of Lynda Christodoulou sworn February 28, 2024

1. **THIS COURT ORDERS** that 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.

## **BIA MANDATES**

2. **THIS COURT ORDERS** that the name TDB Restructuring Limited be and is hereby substituted in place of the name of RSM Canada Limited as Trustee in Bankruptcy (the “**Bankruptcy Trustee**”) of the estate files listed as bankruptcies on Schedule “A” hereto (the “**BIA Estates**”) and as Proposal Trustee (the “**Proposal Trustee**”) of the estate files listed as proposals on Schedule “A” hereto (collectively with the BIA Estates, the “**BIA Mandates**”) and any reference to the name RSM Canada Limited in any Court Order in respect of such BIA Mandates or any schedule to such Court Order shall be replaced by the name TDB Restructuring Limited.

3. **THIS COURT ORDERS** that, for greater certainty all, real and personal property wherever situate of the BIA Estates shall be, remain and is hereby vested in TDB Restructuring Limited in its capacity as Bankruptcy Trustee, to be dealt with by TDB Restructuring Limited in accordance with the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), pursuant to its powers and obligations as Bankruptcy Trustee of the BIA Estates.

4. **THIS COURT ORDERS** that TDB Restructuring Limited is authorized and directed to continue and to complete the administration of the BIA Mandates, to deal with the property in the BIA Mandates in accordance with its duties and functions as Bankruptcy Trustee or Proposal Trustee, as the case may be, as set out in the BIA and to receive all remuneration of the Bankruptcy Trustee or Proposal Trustee in the BIA Mandates for services performed from the commencement of each of the BIA Mandates until the discharge of the Bankruptcy Trustee or Proposal Trustee, as applicable.

5. **THIS COURT ORDERS** that that the requirement and responsibility for taxation of the Bankruptcy Trustee’s or Proposal Trustee’s accounts in respect of the BIA Mandates with respect to all work performed in respect of such BIA Mandate from the initial appointment of RSM Canada Limited or any other party, through to the completion of the administration of such BIA Mandates and discharge of TDB Restructuring Limited as Bankruptcy Trustee or Proposal Trustee, as applicable, shall be completed using the name TDB Restructuring Limited.

6. **THIS COURT ORDERS AND DIRECTS** that to the extent that security has been given in the name of RSM Canada Limited in cash or by bond of a guarantee company pursuant to section 16(1) of the BIA (the “**Security**”), such Security shall be transferred from the name RSM Canada Limited to the name TDB Restructuring Limited and any party holding such Security be and is hereby directed to take all steps necessary to effect such transfer. TDB Restructuring Limited shall retain all obligations respecting the Security.

#### **RECEIVERSHIP PROCEEDINGS**

7. **THIS COURT ORDERS** that the name TDB Restructuring Limited be and is hereby substituted in place of the name RSM Canada Limited as the Receiver, Receiver and Manager, or Interim Receiver (collectively, “**Receiver**”) in respect of the mandates listed in Schedule “B” hereto (the “**Receivership Proceedings**”) and any reference to the name RSM Canada Limited in any Court Order in respect of such Receivership Proceedings or any schedule to such Court Order shall be replaced by the name TDB Restructuring Limited.

#### **CCAA PROCEEDINGS**

8. **THIS COURT ORDERS** that the name TDB Restructuring Limited be and is hereby substituted in place of the name of RSM Canada Limited as Monitor of the estate files listed as CCAA restructuring proceedings on Schedule “C” hereto (the “**CCAA Estates**”) and any reference to the name RSM Canada Limited in any Court Order in respect of such mandates (the “**CCAA Mandates**”) or any schedule to such Court Order shall be replaced by the name TDB Restructuring Limited.

#### **ESTATE TRUSTEE DURING LITIGATION PROCEEDINGS**

9. **THIS COURT ORDERS** that: (i) the name TDB Restructuring Limited be and is hereby substituted in place of the name RSM Canada Limited as Estate Trustee During Litigation in respect of the mandate listed in Schedule “D” hereto; and (ii) the name Bryan A. Tannenbaum of TDB Restructuring Limited be and is hereby substituted in place of the name Bryan A. Tannenbaum of RSM Canada Limited as Estate Trustee During Litigation in respect of the mandate listed in Schedule “D” (collectively, the “**Estate Mandates**”), and any reference to the name RSM Canada Limited in any Court Order in respect of such Estate Mandates or any

schedule to such Court Order shall be replaced by the name TDB Restructuring Limited. Collectively, the BIA Mandates, the Receivership Proceedings, the CCAA Mandates and the Estate Mandates are referred to herein as the “**Substituted Matters**”).

## **SUBSTITUTED MANDATES**

10. **THIS COURT ORDERS** that TDB Restructuring Limited (and its directors, officers, employees, agents, legal counsel and other representatives, as applicable) will continue to have all rights, benefits, protections and obligations granted to RSM Canada Limited (and its legal counsel and representatives, as applicable) under any order made in the Substituted Mandates or any statute applicable to the Substituted Mandates or any contract or agreement to which TDB Restructuring Limited is party under the name RSM Canada Limited in the Substituted Mandates. For greater certainty and without limitation, this includes the benefit of any indemnity, charge or priority granted in the Substituted Mandates and relief from the application of any statute including the Personal Information Protection and Electronic Documents Act (Canada) (“**PIPEDA**”).

11. **THIS COURT ORDERS** that to the extent required by the applicable Orders in the Substituted Mandates, the accounts of RSM Canada Limited and its legal counsel in respect of the Substituted Mandates shall be passed in accordance with the applicable Orders in the Substituted Mandates in the name and on the application of TDB Restructuring Limited.

## **ACCOUNTS**

12. **THIS COURT ORDERS** that TDB Restructuring Limited be and is hereby authorized to transfer any and all accounts from the name RSM Canada Limited to the name TDB Restructuring Limited and, if the name on such accounts cannot be changed, to transfer all funds that remain in its trust bank accounts that belong or relate to the Substituted Mandates, or otherwise, to accounts in the name TDB Restructuring Limited, and TDB Restructuring Limited be and is hereby authorized to take all steps and to execute any instrument required for such purpose. Any bank, financial institution or other deposit-taking institution with which TDB Restructuring Limited banks be and is hereby authorized to rely on this Order for all purposes of

this paragraph and shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any of the foregoing actions.

13. **THIS COURT ORDERS AND DIRECTS** that TDB Restructuring Limited be and is hereby authorized to endorse for deposit, deposit, transfer, sign, accept or otherwise deal with all cheques, bank drafts, money orders, cash or other remittances received in relation to any of the Substituted Mandates where such cheques, bank drafts, money orders, cash or other remittances are made payable or delivered to the name TDB Restructuring Limited, in relation to the same, and any bank, financial institution or other deposit-taking institution with which TDB Restructuring Limited banks be and is hereby authorized to rely on this Order for all purposes of this paragraph and shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any of the foregoing actions.

#### **GENERAL**

14. **THIS COURT ORDERS** that this Order shall be effective in all judicial districts in Ontario which govern any of the Substituted Mandates.

15. **THIS COURT ORDERS** that the requirement for a separate Notice of Motion and supporting Affidavit to be filed in the Court file of each of the Substituted Mandates be and is hereby waived.

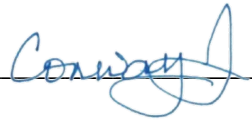
16. **THIS COURT ORDERS** that TDB Restructuring Limited shall notify the parties on the Service Lists of the Substituted Mandates (if applicable) of the new website established for such Substituted Mandate and shall post a copy of this Order to the website of each Substituted Mandate and that such notice shall satisfy all requirements for service or notification of this motion and this Order on any interested party in the Substituted Mandates including, without limitation, proven creditors within the BIA Mandates, parties on the Service Lists of the Substituted Mandates (if applicable), the applicable bankrupts or debtors within the Substituted Mandates, and any other person, and any other requirements of service or notification of this motion be and is hereby waived.

17. **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 TDB Restructuring Limited 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 TDB Restructuring Limited as may be necessary or desirable to give effect to this Order, or to assist TDB Restructuring Limited and its agents in carrying out the terms of this Order.

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



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## Schedule "A": BIA Mandates

### Bankruptcies

	<b>Name</b>	<b>Estate Number</b>
1.	Carrington Homes Limited	31-457618
2.	Fernicola, George	31-457619
3.	D. Mady Investments Inc.	31-2281994
4.	Eco Energy Home Services Inc.	31-2502463
5.	Ontario HVAC & Water Inc.	31-2613545
6.	2305992 Ontario Inc.	31-2655918
7.	Fernwood Developments (Ontario) Corporation	31-2661061
8.	Legal Print and Copy Incorporated	31-2884436
9.	Commerce Copy Incorporated	31-2884438
10.	TDI-Dynamic Canada, ULC	31-2903815
11.	Limestone Labs Limited	31-2907613
12.	2465409 Ontario Inc.	31-2939766
13.	Creative Wealth Media Finance Corp.	31-3003083
14.	Knight-Pro Inc.	31-3013900
15.	Ulmer, Blair	32-159136

### Division 1 Proposals

	<b>Name</b>	<b>Estate Number</b>
1.	Vaughn Mills Packaging Ltd.	31-2895096
2.	RLogistics Limited Partnership	31-3040679
3.	RLogistics Inc.	31-3042209
4.	1696308 Ontario Inc.	31-3042213

### **Schedule "B": Receivership Proceedings**

<b>Name</b>	<b>Court / OSB Number</b>
1. Z. Desjardins Holdings Inc.	CV-23-00706607-00CL
2. 485, 501 and 511 Ontario Street South, Milton, ON	CV-23-00696349-00CL
3. Eco Energy Home Services Inc.	CV-19-614122-00CL
4. 3070 Ellesmere Developments Inc.	CV-19-00627187-00CL
5. Fernwood Developments Ontario Corporation	CV-20-00635523-00CL
6. Utilecredit Corp.	CV-20-00636417
7. 134, 148, 152, 184/188, 214, 224 and 226 Harwood Avenue, Ajax, ON	CV-20-00651299-00CL
8. Greenvilla (Sutton) Investment Limited (private receivership)	31-459273
9. 2088556 Ontario Inc. (private receivership)	31-459274
10. 935860 Ontario Limited (private receivership)	31-459275
11. Areacor Inc.	CV-22-00674747-00CL
12. Limestone Labs Limited and CleanSlate Technologies Incorporated (private receivership)	31-459498
13. 12252856 Canada Inc.	CV-22-00691528-00CL
14. Harry Sherman Crowe Housing Co-operative Inc.	CV-22-00688248-00CL
15. Richmond Hill Re-Dev Corporation	CV-23-00695238-00CL
16. Stateview Homes (Hampton Heights) Inc.	CV-23-00700356-00CL
17. 142 Queenston Street, St. Catharines, ON	CV-23-00705617-00CL
18. 2849, 2851, 2853, 2855 and 2857 Islington Avenue, Toronto, ON	CV-23-00701672-00CL
19. 311 Conacher Drive, Kingston, ON	CV-23-00701672-00CL
20. Real Property owned by King David Inc.	CV-23-00710411-00CL
21. CBJ Developments Inc. et al.	CV-23-00707989-00CL
22. 25 Neighbourhood Lane, Etobicoke, ON M8Y 0C4	31-459784

## Schedule "C": CCAA Proceedings

Name	Court Number
1. Quality Sterling Group, comprising Quality Rugs of Canada Ltd., Timeline Floors Inc., Ontario Flooring Ltd., Weston Hardwood Design Centre Inc., Malvern Contact Interiors Ltd., Timeline Floor Inc. Ontario Flooring Ltd. Weston Hardwood Design Centre Inc. Malvern Contract Interior Limited Quality Commercial Carpet Corporation Joseph Douglas Pacione Holding Ltd. John Anthony Pacione Holding Ltd. Jopac Enterprises Limited, and Patjo Holding Inc.	CV-23-00703933-00CL

## Schedule "D": Estate Trustee During Litigation Proceedings

Name	Court Number
1. The Estate of Sarah (Sue) Turk *	01-3188/14
2. The Estate of Sarah (Sue) Turk *	05-35/14
3. The Estate of Lev Alexandr Karp – <i>discharge</i> <i>pending</i>	05-100/17 05-265/17
4. The Estate of Peter Trezzi	01-4647/16
5. The Estate of Florence Maud Anderson *	05-159/19
6. Estate of Murray Burke	2988/19
7. Estate of Robert James Cornish	CV- 23-00693852-00ES
8. Estate of Anne Takaki *	CV-22-00011105-00ES
9. Estate of John Takaki *	CV-22-00011105-00ES
10. Estate of James Frederick Kay **	06-006/14
11. Klaczkowski Family Trust **	CV-21-00659498-00ES
12. Estate of Ethel Ailene Cork **	CV-23-00710309-00ES
13. Estate of Justin Milton Cork **	CV-23-00710291-00ES

\* In the name of Bryan A. Tannenbaum of RSM Canada Limited.

\*\* In the name of Bryan A. Tannenbaum only.

**TDB RESTRUCTURING LIMITED**

**and**

**RSM CANADA OPERATIONS ULC**

Court File No. CV-24-00715515-00CL

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

Proceedings commenced at TORONTO

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**O R D E R**

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**CHAITONS LLP**

Barristers and Solicitors  
5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, ON M2N 7E9

**Maya Poliak (LSUC #54100A)**

Tel: 416-218-1161

Email: maya @chaitons.com

**Lawyers for the Applicant**





Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

**RECEIVER:** BRYAN A TANNENBAUM  
RSM Canada Limited  
RSM Place  
11 King Street West, Suite 700  
Toronto, ONTARIO  
M5H 4C7

**DATE:** February 22, 2024

**RE: Filing of Receivership and Reporting Duties of Receiver**

**ESTATE NAME:** 25 NEIGHBOURHOOD LANE,ETOBICOKE,ONTARIO, M8Y0C4

**ESTATE NO:** 31-459784

**Dear Sir/Madam,**

**We write to acknowledge receipt of Form 87, Notice and Statement of the Receiver, for the above noted receivership. Please note the assigned estate number and ensure this number is on all future correspondence.**

**As a reminder, subsection 246(2) of the Bankruptcy and Insolvency Act (BIA) and Rule 126 of the Bankruptcy and Insolvency General Rules require the receiver to prepare interim reports relating to the receivership at least once every six months and provide copies thereof to the Superintendent, to the insolvent person or the Licensed Insolvency Trustee (in the case of a bankrupt) and to any creditor who requested a copy.**

**In addition, pursuant to subsection 246(3) of the BIA and Rule 127, the receiver shall, after completion of his/her duties, prepare a final report and a statement of accounts containing the prescribed information relating to the receivership and provide a copy thereof to the Superintendent, to the insolvent person or the Licensed Insolvency Trustee (in the case of a bankrupt) and to any creditor who requested a copy.**

**Please contact this office should you have any questions regarding any of the above.**

**Superintendent of Bankruptcy**

151 Yonge Street, 4th Floor, Toronto, ONTARIO, M5C 2W7, 877/376-9902

**Canada** 



# Appendix B



February 26, 2024

**BY EMAIL: bryan.tannenbaum@rsmcanada.com  
jeff.berger@rsmcanada.com**

RSM Canada Limited  
Licensed Insolvency Trustees & Receivers  
11 King Street West, Suite 700, Box 27  
Toronto, Ontario  
M5H 4C7

**RE: PEOPLES TRUST COMPANY (the “Lender”) LOAN TO VANDYK-  
BACKYARD QUEENSVIEW LIMITED (the “Debtor”)**

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You have requested that we review and provide you with our opinion regarding the validity and enforceability of a security interest granted by the Debtor relating to the assets and undertaking of the Debtor, and the enforceability of those interests as against a receiver. I confirm that we have reviewed the following documentary evidence:

- 1) A Charge/Mortgage of Land registered on August 24, 2023, as Instrument No. AT6405972 (the “**Mortgage**”), against the lands and premises legally described as in Schedule “A” hereto (collectively, the “**Properties**”);
- 2) A Site-Specific General Security Agreement granted by the Debtor as of August 18, 2023, as it relates to the Debtor’s assets at the Properties (the “**Site-Specific General Security Agreement**”);
- 3) *Personal Property Security Act* (Ontario) search against the Debtor dated February 21, 2024 (the “**PPSA Search**”); and
- 4) Title Abstract for the Properties dated February 20, 2024 (the “**Title Search**”).

We have not obtained a corporate profile or reviewed the minute book of the Debtor. Our opinions are subject to the following qualifications and reservations:

- 1) We have assumed that all documents were executed on the date indicated therein.
- 2) We have assumed the genuineness of all signatures and legal capacity of all natural persons whose signatures appear on behalf of the Debtor and the conformity to the original documents of all documents submitted to us as photostatic copies.



- 3) We have assumed the accuracy and currency of the indices and filing systems maintained at the public offices where we have searched or inquired or have caused such searches or inquiries to be conducted.
- 4) We have assumed that the Debtor is validly constituted and existing in accordance with the laws under which it is constituted and has all necessary power and capacity to execute and deliver the loan documents to which it is a party and perform its obligations thereunder.
- 5) We have assumed that the execution and delivery by the Debtor of the loan documents, and the performance of its obligations thereunder, have been duly authorized and do not breach any laws to which it is subject and each such loan documents has been duly executed and delivered in accordance with the laws of its governing jurisdiction.
- 6) We have assumed that the Debtor has no legal defences against the Lender without limitation, absence of legal capacity, fraud, misrepresentation, undue influence or duress.
- 7) We have assumed that the Site-Specific General Security Agreement and the Mortgage were delivered by the Debtor as security for direct advances.
- 8) We have assumed that money was in fact advanced.
- 9) We express no opinion as to title of the Debtor to any of the collateral whatsoever.
- 10) We are qualified to render opinions in this regard only as to the laws in force in the Province of Ontario and the applicable federal laws of Canada as currently applied and enforced in Ontario.
- 11) We have assumed that the Site-Specific General Security Agreement has, to the extent that financing statements have been registered under the *Personal Property Security Act* (Ontario) (the “PPSA”), attached in accordance with the provisions of the PPSA. We are also assuming that the description of the collateral secured is sufficient to enable it to be identified within the meaning of section 1(1)(a) of the PPSA, and that, neither the Debtor nor any creditor has agreed to postpone the time for attachment.
- 12) This Opinion is confined to statements of fact or matters set forth herein as existing as at the date of this Opinion.

The PPSA Search discloses a Site-Specific General Security Agreement registered in favour of Lender. The registration remains perfected. The Site-Specific General Security Agreement provides for remedies upon default, including the appointment of a Receiver in writing, or by Court of competent Jurisdiction.



The Title Search discloses a Charge/Mortgage registered in favour of Peoples Trust Company on August 24, 2023. The terms of the Charge/Mortgage include a right to appoint a Receiver upon default.

Based upon and subject to the foregoing, our opinion is as follows:

- 1) The Site-Specific General Security Agreement given by the Debtor in favour of the Lender is perfected under the PPSA and constitutes a valid and binding obligation of the Debtor in accordance with its terms.
- 2) The Site-Specific General Security Agreement in favour of the Lender constitutes a first-rank security against the Debtor's assets at the Properties under the PPSA.
- 3) The Mortgage registered pursuant to the Land Titles Act is a valid and binding obligation against the Debtor.
- 4) The Mortgage constitutes a first-rank charge/mortgage in favour of the Lender.
- 5) Both the General Security Agreement and the Mortgage include the power to appoint a Receiver upon default.

The Opinion expressed herein is provided solely for the benefit of the party who it was delivered to and may not be relied upon or used by any other person for any reason whatsoever.

Yours very truly,

*LOOPSTRA NIXON LLP*



## SCHEDULE A LEGAL DESCRIPTION OF THE PROPERTIES

### **Dwelling Units**

**PIN 76983 – 0011 (LT)**

Description: UNIT 2, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0014 (LT)**

Description: UNIT 5, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0017 (LT)**

Description: UNIT 8, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0020 (LT)**

Description: UNIT 11, LEVEL 2, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0026 (LT)**

Description: UNIT 2, LEVEL 3, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0035 (LT)**

Description: UNIT 11, LEVEL 3, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0036 (LT)**

Description: UNIT 12, LEVEL 3, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0073 (LT)**

Description: UNIT 4, LEVEL 6, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0083 (LT)**

Description: UNIT 14, LEVEL 6, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO



**PIN 76983 – 0088 (LT)**

Description: UNIT 4, LEVEL 7, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0094 (LT)**

Description: UNIT 10, LEVEL 7, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0097 (LT)**

Description: UNIT 13, LEVEL 7, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0098 (LT)**

Description: UNIT 14, LEVEL 7, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0102 (LT)**

Description: UNIT 3, LEVEL 8, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0110 (LT)**

Description: UNIT 11, LEVEL 8, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0114 (LT)**

Description: UNIT 3, LEVEL 9, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0125 (LT)**

Description: UNIT 2, LEVEL 10, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0126 (LT)**

Description: UNIT 3, LEVEL 10, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0127 (LT)**

Description: UNIT 4, LEVEL 10, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0128 (LT)**

Description: UNIT 5, LEVEL 10, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO



**PIN 76983 – 0135 (LT)**

Description: UNIT 12, LEVEL 10, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**Parking Units**

**PIN 76983 – 0136 (LT)**

Description: UNIT 1, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0137 (LT)**

Description: UNIT 2, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0138 (LT)**

Description: UNIT 3, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0139 (LT)**

Description: UNIT 4, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0140 (LT)**

Description: UNIT 5, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0141 (LT)**

Description: UNIT 6, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0143 (LT)**

Description: UNIT 8, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0144 (LT)**

Description: UNIT 9, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0145 (LT)**

Description: UNIT 10, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO



**PIN 76983 – 0146 (LT)**

Description: UNIT 11, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0147 (LT)**

Description: UNIT 12, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0148 (LT)**

Description: UNIT 13, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0151 (LT)**

Description: UNIT 16, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0152 (LT)**

Description: UNIT 17, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0153 (LT)**

Description: UNIT 18, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0154 (LT)**

Description: UNIT 19, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0155 (LT)**

Description: UNIT 20, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0156 (LT)**

Description: UNIT 21, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0157 (LT)**

Description: UNIT 22, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0161 (LT)**

Description: UNIT 26, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO





**PIN 76983 – 0162 (LT)**

Description: UNIT 27, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0163 (LT)**

Description: UNIT 28, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0164 (LT)**

Description: UNIT 29, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0165 (LT)**

Description: UNIT 30, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0166 (LT)**

Description: UNIT 31, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0169 (LT)**

Description: UNIT 34, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0172 (LT)**

Description: UNIT 37, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0235 (LT)**

Description: UNIT 13, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0243 (LT)**

Description: UNIT 21, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0328 (LT)**

Description: UNIT 19, LEVEL D, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO



**PIN 76983 – 0336 (LT)**

Description: UNIT 27, LEVEL D, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 –0351 (LT)**

Description: UNIT 42, LEVEL D, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0354 (LT)**

Description: UNIT 45, LEVEL D, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0399 (LT)**

Description: UNIT 4, LEVEL E, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0400 (LT)**

Description: UNIT 5, LEVEL E, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**Locker Units**

**PIN 76983 – 0182 (LT)**

Description: UNIT 47, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0183 (LT)**

Description: UNIT 48, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0184 (LT)**

Description: UNIT 49, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0185 (LT)**

Description: UNIT 50, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0186 (LT)**

Description: UNIT 51, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO



**PIN 76983 – 0187 (LT)**

Description: UNIT 52, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0189 (LT)**

Description: UNIT 54, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0190 (LT)**

Description: UNIT 55, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0191 (LT)**

Description: UNIT 56, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0192 (LT)**

Description: UNIT 57, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0193 (LT)**

Description: UNIT 58, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0194 (LT)**

Description: UNIT 59, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0195 (LT)**

Description: UNIT 60, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0196 (LT)**

Description: UNIT 61, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0197 (LT)**

Description: UNIT 62, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0198 (LT)**

Description: UNIT 63, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO



**PIN 76983 – 0200 (LT)**

Description: UNIT 65, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 –0201 (LT)**

Description: UNIT 66, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0202 (LT)**

Description: UNIT 67, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0203 (LT)**

Description: UNIT 68, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0204 (LT)**

Description: UNIT 69, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0205 (LT)**

Description: UNIT 70, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0206 (LT)**

Description: UNIT 71, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0214 (LT)**

Description: UNIT 79, LEVEL B, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0290 (LT)**

Description: UNIT 68, LEVEL C, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0380 (LT)**

Description: UNIT 71, LEVEL D, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO



**PIN 76983 – 0382 (LT)**

Description: UNIT 73, LEVEL D, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0387 (LT)**

Description: UNIT 78, LEVEL D, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0421 (LT)**

Description: UNIT 26, LEVEL E, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0424 (LT)**

Description: UNIT 29, LEVEL E, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0426 (LT)**

Description: UNIT 31, LEVEL E, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

**PIN 76983 – 0428 (LT)**

Description: UNIT 33, LEVEL E, TORONTO STANDARD CONDOMINIUM PLAN NO. 2983 AND ITS APPURTENANT INTEREST; CITY OF TORONTO

# Appendix C



Cynthia Davis\*  
519-578-4150 x 165  
[cd@giffenlawyers.com](mailto:cd@giffenlawyers.com)

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February 27, 2024

**Thornton Grout Finnigan LLP**  
100 Wellington Street W., Suite 3200  
P.O. Box 329, Toronto-Dominion Centre  
Toronto, Ontario  
M5K 1K7

**Attention: Puya Fesharaki, Counsel to the Receiver of Vandyk - Queensview Limited**

Dear Mr. Fesharaki

**Re: TA Appliances Inc. (“TA”) v. Vandyk – Queensview Limited (“Backyard”)  
25 Neighbourhood Lane, Etobicoke (the “Property”)  
TA’s entitlement to appliances supplied by TA to Backyard at the Property**

We write in response to receipt of the Receiver’s Motion Record served at 11:42PM on February 27, 2024 – effectively, yesterday. Defined terms herein are as defined in the Motion Record.

In particular, we write as it appears that although the Appointment Order and the original Application seeking appointment of the Receiver expressly excluded the personal property of Backyard in the definition of Property to be subject to the receivership proceedings (see paragraph 32 of the Affidavit of Mr. Lombard), the Receiver is in fact seeking Orders that effectively exert authority over the personal property of Backyard, and as it pertains to TA, to the appliances supplied by TA and located within the unsold units (the **“Appliances”**).

We note further that Appendix “C”, being the Amended Agreement of Purchase and Sale in respect of Unit 302 (the **“APS”**) purports to sell the Fridge, Stove, Dishwasher and stackable washer and dryer with the Unit, which appliances form the Appliances supplied by TA.

TA objects to this sale to the extent that it includes the Appliances.

It is TA’s position that the Receiver does not have the authority to deal with Backyard’s personal property pursuant to the Appointment Order.

In the alternative, TA requires an opportunity to properly put the appropriate evidence before the Court to respond to the Receiver’s efforts to exert such authority over the Appliances – which only became known to TA in the Motion Record.

You will recall, we first connected on February 8, 2024 wherein TA confirmed it's position that it was entitled to recovery of the Appliances sitting within the unsold units given the failure of Backyard to render payment for the same.

During the call, you:

(a) confirmed the Receiver was not taking any positions over Backyard's personal property, including the Appliances, and

(b) that TA could contact the Receiver directly to arrange for pick up of the Appliances.

Following our call, you wrote seeking TA's position as to why it was entitled to recover the Appliances over other's that had general security agreements – however, at no time did you indicate that the Receiver was intending to take steps to exercise control over the Appliances or sell the same without TA's approval.

You can understand, therefore, TA's surprise when the First Report set out at paragraph 7 (k) that the Receiver is taking steps to consider the impact of registrations made in respect of personal property, notwithstanding the disclaimer of the same falling within the scope of the Receiver's appointment, and moreover, has negotiated the terms of the APS to include the Appliances over which it is aware TA makes claim to.

TA confirmed its position in our letter of February 27<sup>th</sup>.

In addition to these issues, TA is of the view that the Receiver and you, as Receiver's counsel and counsel to the Applicant, are in a conflict position as it pertains to any assessment of entitlements to personal property.

We have not yet received a substantive response, or clarity as to how it is that the Receiver is undertaking the role of arbitrator of entitlements over the Appliances given the terms of the Appointment Order.

Notwithstanding the above, in an effort to avoid delays of the Motion and the sale of any of the Unsold Units, TA proposes the following:

- (a) The Receiver clarifies its position on the authority to deal with the Appliances which is a necessary precondition to assessing the appropriate next steps for any dispute over priority to be brought forward in the appropriate proceeding,
- (b) Where it remains necessary following a substantive response to TA's position and the response to paragraph (a) herein, a reasonable timetable shall be agreed for a wholesome motion to address priority over the Appliances as between the Applicant and TA in any appropriate proceeding, and
- (c) The terms of the Draft Approval and Vesting Order at Tab 3 shall be amended such that, from the proceeds of the sale of Unit 302, and any subsequently sold Unsold Units wherein the Receiver includes in the APS the Appliances, a sum of \$4,000



shall be held back by the Receiver to the credit of either the Applicant or TA upon resolution of the priority dispute over the Appliances.

Kindly confirm whether the above reasonable proposal is acceptable forthwith, but no later than March 1 at 3 pm.

I am available to discuss the same tomorrow morning between 9:30 and noon.

Yours truly,  
**Giffen LLP**



Cynthia Davis

CD/



Court File No. CV-23-00001672-0000

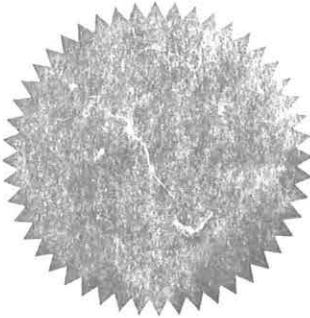
**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR. )  
JUSTICE D.J. GORDON )

FRIDAY, THE 19TH  
DAY OF JANUARY , 2024

BETWEEN:

*(Court Seal)*



TA APPLIANCE INC.

Plaintiff

and

VANDYK - BACKYARD QUEENSVIEW LIMITED

Defendant

**ORDER**

**THIS MOTION**, made by the Plaintiff for default judgement against the Defendant, made without notice, was read this day at the court house, 85 Frederick Street, Kitchener ON N2H 0A7.

**ON READING** the Motion Record including the Affidavit of Al Kidd, sworn January 15, 2024,

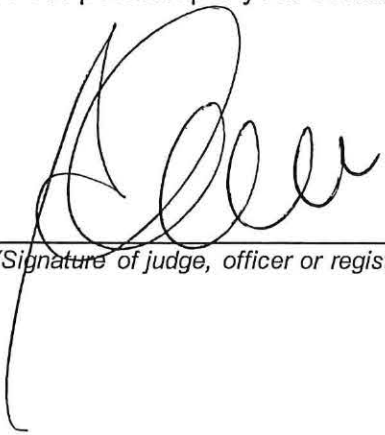
1. **THIS COURT ORDERS THAT** service of the Notice of Motion and Motion Record herein upon the Defendant is waived, the Defendant having been noted in default.

2. **THIS COURT DECLARES** that the Defendant has breached the Contract dated February 11, 2021.

3. **THIS COURT ORDERS THAT** the Defendant shall pay the Plaintiff the sum of FOUR HUNDRED NINETY-TWO THOUSAND SIXTY-FOUR DOLLARS AND SEVENTY-ONE CENTS (\$492,064.71) together with prejudgement interest in the amount of SEVEN THOUSAND SIX HUNDRED FORTY-FIVE DOLLARS and TWENTY CENTS (\$7,645.20) for a total Judgement of FOUR HUNDRED NINETY-NINE THOUSAND SEVEN HUNDRED AND NINE DOLLARS and NINETY-ONE CENTS (\$499,709.91).

4. **THIS COURT ORDERS THAT** the Defendant shall pay the Plaintiff's costs of this action in the amount of \$ 4,876.56 inclusive of disbursements and HST.

THIS ORDER BEARS INTEREST at the rate of 7% percent per year commencing on the date herein.

  
\_\_\_\_\_  
(Signature of judge, officer or registrar)

T A APPLIANCE INC.  
Plaintiff

-and- VANDYK - BACKYARD QUEENSVIEW LIMITED  
Defendant

Court File No. CV-23-00001672-0000

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
PROCEEDING COMMENCED AT  
WATERLOO REGION

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**ORDER**

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**GIFFEN LLP**

Lawyers

101 Randall Drive, Unit A

Waterloo, ON N2V 1C5

**Cynthia Davis** [LSO # 53653M]

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Lawyers for the Plaintiff



# VANDYK – Backyard Queensview Limited

**VANDYK**  
P R O P E R T I E S

1944 Fowler Drive  
Mississauga, ON L5K 0A1

VANDYK-Backyard Queensview Limited, (the "Builder") and the undersigned Contractor (the "Contractor") agree that the Contractor shall, subject to the General Conditions forming a part hereof, supply all of the labour, materials, services, tools, and/or equipment necessary to perform the work described on Schedule "A" attached hereto with respect to the Project, in accordance with the Builder's plans, drawings and specifications, a list of which have been included as Schedule "F". The drawings noted in Schedule "F" have been reviewed by the Contractor and is, has and will be available in an online plans depository, accessible by the Contractor. The Contractor acknowledges that work can be satisfactorily performed as per the Builder's discretion with no extras or charges. The Builder shall, subject to the said General Conditions, pay to the Contractor in full payment for the work, the stipulated price and unit prices as indicated in Schedules "B" and "C". As specifically provided herein, the price is inclusive of all duties and provincial sales tax where applicable and exclusive of the Harmonized Services Tax (HST), which will be calculated on the price herein, and the Contractor shall commence work upon two days' notice, in writing or otherwise, and to complete such work at such times and in such manner as may be required by the Builder.

**Contractor:**  
TA Appliances Inc.  
932 Victoria Street  
Kitchener, ON N2B 1W4

**Project:**  
Backyard Queensview (Building C)  
25 Neighbourhood Lane  
Etobicoke, ON M8Y 0C4

**Contract Date:** February 11, 2021

**Project Number:** 2044

**Contract Number:** 11452

**Consultants:** See Appendix "B"

**Work:** Appliances

**Expiry Date:** End of Project

**Owner:**  
Vandyk-Backyard Queensview Limited  
1944 Fowler Drive  
Mississauga, ON L5K 0A1

**Construction Manager:**  
Toddglen Limited  
1100-2225 Sheppard Avenue East  
Toronto, ON M2J 5C2

**Terms of Payment:** Invoicing with proper supporting documents are to be submitted to Toddglen Limited's head office on or before the 22<sup>nd</sup> day of the month. Net 45 days from end of month. 10% Holdback. Release of holdback is subject to the *Construction Act, R.S.O. 1990 Chapter 30* (hereinafter the "Act"). NOTE: Only original completion forms will be accepted

**Payor on all Invoices:** Vandyk-Backyard Queensview Limited

**CONTRACT DOCUMENTS, all of which are attached hereto and form part of this Contract:**

Appendix "A" – Insurance Requirements  
Appendix "B" – List of Consultants  
Schedule "A" – Scope of Work  
Schedule "B" – Stipulated Price  
Schedule "C" – Extras to Contract Price  
Schedule "D" – Project Rules  
Schedule "E" – Ministry of Labour Form 1000  
Schedule "F" – List of Drawings  
Schedule "G" – Progress Billing  
Schedule "S" – Safety Policies

Contract prices are firm to the End of the Project which is defined as the project receiving Registration.

Prices for extras are to be held beyond the expiry date where Trade Contract Change Orders or Purchase Orders for those extras have already been issued.

**Electronic Communications:** This document may be transferred by means of electronic systems, in which case signatures shall be deemed original. The transmission of this agreement to VANDYK by electronic means shall be deemed to confirm the builder has retained a true copy of the Agreement. This Contractor is responsible for notifying the Construction Manager, in writing, of any price increases within seven (7) calendar days due to a change or extra. If the price increases are not submitted, as set out above, it is hereby agreed that the change or extra will be provided at no additional cost to the Builder.

All units/material ordered before the Contract expiry date shall be invoiced at current Contract prices.

**Contact Name:** Jay Kessler **HST#:** 861275998

**Worker's Compensation (WSIB) – Valid clearance certificate required with Contract**

**Firm #:** 724244 **Account#:** 1112837

**Liability Insurance – Valid certificate of liability insurance required with Contract naming VANDYK-BACKYARD QUEENSVIEW LIMITED AND TODDGLEN LIMITED as additional insureds. VANDYK-BACKYARD QUEENSVIEW LIMITED to be the certificate holder.**

**Insurance Company:** ARTHUR J. GALLAGHER CANADA LTD **Policy #:** 10000019320 **Expiry Date:** \_\_\_\_\_

**Form 1000 – Registration of Constructors** \_\_\_\_\_ **Company Safety Manual (supplied by signing trade)** \_\_\_\_\_

Per:   
Date: FEB 24, 2021

TA APPLIANCE INC.

Per:   
Date: \_\_\_\_\_  
John C. Vandyk, President & CEO

VANDYK – BACKYARD QUEENSVIEW LIMITED





## GENERAL CONDITIONS

### 1.0 DEFINITIONS

- 1.01 In this Contract, unless there is something in the context inconsistent therewith, the following terms shall have the following meanings
- a) "Contract" means the Contract resulting from the acceptance of this Contract and the General Conditions and any plans, drawings, specifications or addends that are annexed hereto or issued by the Builder to the Contractor;
  - b) "End of Project" means the date on which the project receives Registration under the Condominium Act of Ontario
  - c) "General Conditions" means these terms and conditions which apply to the Contract;
  - d) "Project" means the project described in the Contract, whereby each area, suite, unit is a draw from the entire project phase.
  - e) "Site" means the general location and conditions where the work is to be performed by the Contractor;
  - f) "Work" means all the labour, material and services offered to be provided by the Contractor to the Builder in order to perform the Project on the terms and conditions described in the Contract;

### 2.0 PAYMENT **THE 10% HOLDBACK WILL ONLY BE SUBJECT TO THE INSTALLATION COST.**

- 2.01 All draft invoices must be received by the 22<sup>nd</sup> of the month, for work performed during that calendar month and dated on the last day of the month. The draft invoice will be reviewed by the Builder and the Construction Manager and deemed to be a proper Invoice under the Act on the last day of the month. Payment (less 10% holdback per the Act) will be made by the Builder to the Contractor per the terms of this Contract, covering the value of the work completed and invoiced by the Contractor. Invoices received after the 22<sup>nd</sup> day of the month will be included in the following month's billings. The ten percent (10%) holdback will be paid after the Contractor's and its Subcontractors' and suppliers' lien rights have expired, all as per Paragraph 3 – Construction Lien Act (Ontario) Holdback.
- 2.02 All invoices shall be accompanied by a Completion Certificate signed by the job superintendent of the Contractor certifying that the portion of work covered by the Completion Certificate has been inspected by him and is completed in every respect before approval by the Construction Manager's Superintendent. Completion slips are to be obtained from the Construction Manager
- 2.03 All invoices improperly submitted will not be processed until rectified and the payment term hereby specified shall commence after the proper invoice is received.
- 2.04 Extras for labour or material will not be accepted unless a Purchase Order or Change Order has been written showing the agreed cost of the extra before the extra work or material is to be supplied.
- 2.05 Extras must be on a separate invoice and not on the same invoice with the regular work covered in the Contract, and must be accompanied by the Purchase Order or Change Order number and Completion Certification.
- 2.06 The Builder may hold back not less than \$25,000 or up to 5% of the Contract price for either deficient work by the Contractor that is outstanding when the Contractor's work is substantially performed or as security with respect to any deficiencies in the work that may be listed in the performance audit to be conducted on the project after it is registered as a condominium.
- 2.07 Purchasers' extra upgrade purchase orders issued to the Contractor will be the authorization to proceed with such works as detailed thereon.

### 3.0 CONSTRUCTION LIEN ACT (ONTARIO) HOLDBACK

- 3.01 The Builder shall retain a holdback out of each payment due to the Contractor hereunder in accordance with the provisions of the Act of 10% of such payment plus any amount in respect of which the Builder has received a written notice of lien (as that term is described in Act). In addition, where the Contract has been certified or declared to be substantially performed but labour, materials or services remain to be supplied to complete the Contract, the Builder shall retain a separate holdback equal to 10% of the price of the entire labour, materials or services in the Contract until all liens that may be claimed against such holdback have expired, or been satisfied or discharged or provided for, all as provided in the Act.
- 3.02 Release of holdback shall comply with the Act.

### 4.0 WARRANTY

- 4.01 The Contractor warrants that the Work shall be completed in a good and workmanlike manner free of any defects in material or workmanship and shall comply in all respects with federal, provincial, municipal and local building codes. The warranty shall be in accordance with the provisions of Tarion and shall apply throughout the specified duration to which the Builder is bound. Warranty shall be in accordance with The Ontario New Home Warranties Plan Act, the minimum specifications of the Canada Mortgage and Housing Corporation (C.M.H.C.) and all plans, drawings and specifications provided by the Builder. The Contractor agrees to make themselves familiar with the warranty and quality standards required under the Tarion program.
- 4.02 The Contractor agrees that the Warranty period is 12 months from the date of possession by the purchaser Any failure to perform work or any deficiency or defect identified in a Tarion statutory warranty claim on any part of the Work including, without limitation, any part of the Work which is reported by either a homebuyer in a 30 Day, One Year or Two Year Statutory Warranty Form or by the condominium corporation in a First Year Common Elements Claim Form, a Performance Audit or a Second Year Common Elements Claim Form must be resolved, corrected or repaired to the satisfaction of the homebuyer, the condominium corporation or Tarion, as applicable, by the Contractor at its sole expense and to the satisfaction of the Construction Manager and the Builder.
- 4.03 The Builder may, upon five (5) days written notice to the Contractor, and immediately in the case of any emergency, and without prejudice to any other rights remedy such deficiency or defect or complete such failure to perform work and will deduct the cost thereof from payments due to the Contractor. In exercising its rights under this paragraph, the Builder may take possession of any materials, tools or construction equipment owned or leased by the Contractor on the Site and use such materials, tools or construction equipment. The costs of such completion or remedy may be subtracted from any payment required to be made by the Builder to the Contractor. If the costs of such completion or remedy exceed any amount owing to the Contractor hereunder, the Contractor shall forthwith pay, on demand, to the Builder an amount equal to the costs of such completion or remedy. Equipment startup does not mean that warranty begins, the warranty period for equipment and material supplied and installed by the Contractor does not commence until the building is registered as a condominium.



# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1

**VANDYK**  
P R O P E R T I E S

## 5.0 AUTHORITY AND ROLE OF THE CONSTRUCTION MANAGER

- 5.01 The Construction Manager shall have authority to act on behalf of the Builder only to the extent provided in the Contract.
- 5.02 The Construction Manager will:
- Provide administration of the Contract as described in the Contract Documents;
  - In the first instance, receive all questions in writing by the Builder or the Contractor for interpretations and findings relating to the performance of the Work or the interpretation of the Contract Documents;
  - In the first instance, give interpretations and make findings on matters in question relating to the performance of the Work or the requirements of the Contract Documents, except with respect to any and all architectural and engineering aspects of the Work;
  - During the progress of the Work, issue supplemental instructions to the Contractor with reasonable promptness or in accordance with a schedule for such instructions agreed to by the Construction Manager and the Contractor;
  - Have authority to reject work which in their opinion does not conform to the requirements of the Contract Documents and whenever it is considered necessary or advisable, require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the Construction Manager to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Construction Manager to the Contractor, its Subcontractors, its Suppliers, or their agents, employees, or other persons performing any of the Work;
  - Give interpretations and make findings that relate to the Work. Such interpretations and findings shall be provided in writing within a reasonable time, and unless otherwise agreed with the Builder and the Contractor, within 10 days of a request for an interpretation.

## 6.0 SCHEDULE AND SUPERVISION

- 6.01 The Contractor shall provide a competent person (the "Representative") to Supervise and coordinate the Work and oversee the safety and safety requirements of the Contractor at all times; provided that the Representative and the Work shall at all times be subject to the control and direction of the Construction Manager. Any instructions or directions given by the Construction Manager to the Representative shall be deemed to be given to the Contractor for the purpose of this Contract.
- 6.02 The Contractor agrees to complete each and every portion of the Work on or before the time or times specified by the Construction Manager from time to time. If the Contractor fails to complete any such portion before the date specified by the Construction Manager, in any event the Contractor shall be liable to the Builder for any loss, damage or claim suffered by the Builder which results from the Contractor's failing to complete any portion of the Work on a timely basis or which results from the Builder having cancelled the balance of the Work under this paragraph; and may be subject to a back charge at the discretion of the Builder.
- 6.03 The Contractor covenants and agrees to use such materials as may be specified by the Builder from time to time for the performance of the Project and its obligations hereunder.

## 7.0 PRIOR WORK

- 7.01 Prior to commencement of the Work, the Contractor shall ensure that all prior work has been properly completed in a manner which will permit the Contractor to complete the Work in accordance with the provisions hereof and the Contractor shall immediately give two days' notice in writing to the Construction Manager of any error or omission or deficiency or information which would prevent or hinder the Contractor from performing its obligations hereunder. By commencing the Work, the Contractor shall be deemed to have accepted all prior work and the Contractor shall be responsible for any defects in the Work, whether resulting from any prior work or otherwise.
- 7.02 The Contractor shall not cut, dig, box or sleeve any structural member so as to endanger any existing work or after any work performed by any other Contractor except with the Construction Manager's written consent.

## 8.0 CHANGES AND EXTRAS

- 8.01 If the Contractor or Builder desires to change the Work in any respect whatsoever, and in the case of the Builder if the Construction Manager so notifies the Contractor initially orally and later in writing (writing within 24 hours), which later notification in writing shall not delay implementation of the change in the Work, the Contractor shall obtain from the Builder a **Notice of Change** prior to proceeding with any such change. The Builder shall not be liable for the cost of any such change if the Contractor has failed to obtain such a signed Notice of Change from the Builder within 7 business days of receiving the written notice from the Contractor for the costs of the change in the Work. If the cost for the change in the Work is not provided to the Builder within 7 business days then there will be zero costs to the Builder and the change in the Work will proceed as per the direction of the Builder.
- 8.02 Prior to commencing work on any portion of the Work, the Contractor shall review the plans, drawings and specifications in respect of such portion to determine whether any change in the Work or in any work done or to be done by any other Contractor or Subcontractor is necessary to be done in order for the Site Contractor to perform its obligation hereunder. If the Contractor determines that any such change should be done, it shall only be done if the Construction Manager approves it in writing. If any change reasonably could have been seen as determined by the Builder as necessary by the Contractor and was not requested by the Contractor prior to commencing work on any portion of the Work, the Contractor shall be liable at its own expense to make any such change which is subsequently required in respect of that portion of the Work.
- 8.03 The value of any change in the Work performed by the Contractor in accordance with such a signed Notice of Change from the Builder pursuant to paragraph 7.01 hereof shall be determined by one or more of the following methods or combination of such methods as determined by the Builder:
- by estimate by the Contractor and acceptance by the Builder in writing of a lump sum;
  - by unit prices set out in the Contract or Subsequently agreed upon; or
  - by cost plus a fixed or percentage fee.
  - Contractor's overhead and fee shall not exceed a combined value of 10%.

## 9.0 COMPLIANCE WITH LAW

- 9.01 The Contractor shall fully comply with all applicable federal, provincial and municipal laws, codes, regulations and standards whether now in effect or hereinafter imposed and shall pay all levies or amounts and obtain all permits required in connection with unemployment insurance, vacation pay, welfare, workers compensation, etc. and any other employee benefits required to be paid, remitted or retained or obtained in respect of any employee of the Contractor in respect of its performance of the Work.

# VANDYK – Backyard Queensview Limited

**VANDYK**  
P R O P E R T I E S

1944 Fowler Drive  
Mississauga, ON L5K 0A1

## 10.0 TAXES

10.01 The Contractor represents, warrants, acknowledges and agrees that all customs duties on materials or goods supplied in the performance of this Contract or on components of such goods, and all excises and taxes on property or services or on persons in connection with the ownership, use, consumption or transfer thereof, whether in the nature of a sales tax, value added tax or otherwise, levied or imposed by Canada, a province of Canada, municipality or other political subdivision thereof or any authority competent to do so, will have been duly and timely paid prior to or in the course of performance of this Contract as the laws governing such levies, imposts and taxes may require and that no such levies, imposts and taxes will or can be required to be paid by the Builder or will be charged upon any property or assets of the Builder. In addition and further of any other right or remedy of the Builder hereunder, the Contractor agrees to indemnify and save harmless the Builder completely for all losses, damages, costs or expenses including interest, liens or penalties and forfeitures, resulting from the non-payment or late payment of any such levies, imposts and taxes. This paragraph 9.01 is not intended to apply to income or profits taxes of the Contractor or the Builder.

## 11.0 INSURANCE

Appendix "A" – Insurance Requirements (attached).

## 12.0 DAMAGE TO SITE

12.01 The Contractor shall be liable for any loss, claim or damage caused at the Site or any adjacent property by its employees, agents and or suppliers including, without limitation, damage caused to pegs and markers, trees, curbs or roads, equipment, sod, sewers, power lines, pipes, building and all structures and things as determined by the Builder and the Construction Manager. In the event of any such damage, the Builder may make such repairs, as it deems necessary and may deduct the cost of such repairs from any amount owing to the Contractor hereunder. If the cost of such repairs exceeds any amount owing to the Contractor hereunder, the Contractor shall, on demand pay to the Builder the amount which exceeds any amount owing to the Contractor within ten (10) business days from Builder notification.

12.02 If the Contractor causes any loss or damage to any other Contractor or Subcontractor, the Contractor agrees to indemnify and save harmless the Builder from any loss or damages of any nature what-so-ever occasioned by any claim by such Contractor or Subcontractor in respect thereof and the Builder may require the Contractor to defend any suit or action by such Contractor or Subcontractor against the Builder at the Contractor's expense.

12.03 The Builder shall not be liable for loss or damages to this work in the Agreement, until after the final acceptance of the Work by all authorities having jurisdiction over it and delivery by the Contractor of a signed Completion Certificate and the Builder shall not be liable for loss or damage to materials, tools, etc., of the Contractor used in its construction, caused by water, wind, acts of God, theft or other causes.

12.04 In the event of a back charge from the Builder to the Subcontractor, the Builder shall apply a 15% administration fee with a minimum charge of \$250 in addition to the back charge for overhead and incidental expenses of the Builder.

## 13.0 ACCESS TO SITE

13.01 Pursuant to arrangements made with the Construction Manager, the Contractor shall be responsible for the access of its trucks or other vehicles to the Site and for the stockpiling of its materials.

## 14.0 TESTS AND INSPECTION

14.01 The Builder and the Construction Manager shall be entitled at any time and from time to time to conduct or request such tests and inspections as may deem to be necessary to ensure compliance with the terms hereof and all applicable federal, provincial and municipal law, codes, regulations and standards and/or company standards as determined by the Builder and the Construction Manager. If any such test or inspection discloses any failure to comply, the Contractor shall be liable for all costs of such testing or inspection and shall, at its own expense, perform such work and supply such materials as is required to effect compliance. The Builder may hold back such amounts payable to the Contractor, which, in the opinion of the Builder and the Construction Manager, are sufficient to ensure the performance of the obligations of the Contractor under this paragraph 13.01.

## 15.0 CLEAN UP

15.01 The Contractor shall, at its own expense, keep the Site free of accumulation of waste material and debris and shall remove the same on a daily basis to a location designated by the Construction Manager and upon completion of the Work. In the event of any failure by the Contractor to perform its obligations daily under this paragraph 14.01, the Construction Manager may cause such waste material and debris to be removed from the Site and the Contractor shall be liable to the Builder for the costs of such removal which may be subtracted by the Builder from any amounts owing to the Contractor hereunder and if such costs exceed any amount owing then the amount which exceeds any amount owing to the Contractor shall forthwith be paid by the Contractor, on demand, to the Builder within ten (10) business days. Garbage bins supplied and paid for by others.

## 16.0 DEFAULT

16.01 In the event of any failure to perform or deficiency or defect in the performance of any obligation of the Contractor hereunder, or if there shall occur at any time an act or event of bankruptcy or insolvency (as defined or provided for in any applicable statute) of the Contractor, or if any proceedings, either voluntary or involuntary, are commenced by or against the Contractor under any law relating to the bankruptcy, insolvency, liquidation, dissolution or winding-up of the Contractor, or if any receiver, manager, trustee, custodian, liquidator, agent or similar official is appointed, judicially or by instrument, for or in respect of the Contractor any of the property or assets of the Contractor, or if the Contractor or any of the property or assets of the Contractor become subject to any execution, sequestration or any other process of any court or to distress or any similar process, or if the Contractor fails to pay when due all rates and charges and all levies, taxes and imposts and resultant costs and expenses as contemplated by paragraph 9.01 hereof, then the Builder, at its sole option, and in addition to and without prejudice to any other right or remedy it may have, may do any or all of the following, namely:

- a) Cancel the balance of the Work to be done under this Contract and complete the Work;
- b) Remedy any failure to perform or deficiency or defect in the performance of any obligation of the Contractor hereunder, all in such manner as the Builder may deem necessary;



- c) For the purpose of any such completion or remedy, take possession of the Contractor's materials, tools and equipment on the Site. The Contractor shall be liable for the costs of any such completion or remedy and for any claim made against the Builder or any other damages suffered by the Builder as a result of any default by the Contractor. The Builder may deduct such costs or damages or claim for damages from any amount owing to the Contractor hereunder all without the requirement of any written or other notice to the Contractor. If the costs of any such completion or other remedy exceed any amount owing hereunder to the Contractor, the Contractor shall forthwith on demand pay to the Builder an amount equal to the difference between the costs of such completion or remedy and any amount due hereunder. No failure of the Builder to, or forbearance of the Builder in exercising any right or remedy in respect of any default shall constitute a waiver thereof or otherwise bar the subsequent exercise of such right of remedy.
- 16.02 A surcharge of 15%, with a minimum of \$250.00, shall be deemed to form part of any cost incurred by the Builder in completing the Work or remedying any failure to perform or deficiency or defect in the performance of any obligations hereunder to cover overhead and incidental expenses of the Builder.
- 17.0 BACK CHARGE**
- 17.01 All outstanding deficiencies are to be completed within seven (7) calendar days of the Contractor being informed in writing by either the Builder or the Construction Manager of the deficient work. If items are not completed within the specified time frame, the Builder will retain payment until confirmation of completion is received. Failure to complete outstanding deficiencies within fourteen (14) calendar days of receiving written notice of the deficiency will, result in a back charge amounting to the cost of completion by other forces. Furthermore, in the event of failure to complete, an additional administrative charge of \$1,000.00 will also be back charged to the Contractor.
- 18.0 CONTRACT and AGREEMENTS**
- 18.01 The Contractor agrees that it will incorporate all the terms and conditions of this Contract into all Contracts or agreements it enters into with its Subcontractors.
- 18.02 The Contractor agrees that it shall be fully liable to the Builder for any act or omission of its Subcontractors or of any person or persons directly or indirectly employed by the Contractor or its Subcontractors.
- 18.03 Nothing contained herein or any Subcontract shall create any Contractual relationship between any Subcontractor and the Builder.
- 18.04 The Contractor agrees to name its Subcontractors and seek prior written approval from the Builder and the Construction Manager for their use when the value of the Subcontractor's work is equal to or greater than 5% of the value of this Contract.
- 19.0 NON WAIVER**
- 19.01 No waiver by either the Builder or the Contractor of any term or provision of this Contract or of any breach or default by the other party under this Contract shall be binding unless in writing. Any such waiver shall not be deemed a continuing waiver and the failure of either party to enforce, at any time, for any period of time, any term or provision hereof shall not be construed as a waiver of such term or provision or of the right of the party to enforce such provision thereafter.
- 20.0 PAYMENTS TO SUBCONTRACTORS**
- 20.01 Subject to any holdback requirements, the Builder shall be entitled to pay any outstanding past due obligation of the Contractor to its Subcontractors, its employees or any other contractor at the Project by cheque or cheques made payable to the Subcontractor, the employee or other contractor and any such payment shall apply as a payment to the Contractor.
- 21.0 EMPLOYEES**
- 21.01 The Contractor shall, no later than two (2) days prior to starting its Work, supply the Construction Manager with the names and contact numbers of key employees of the Contractor who will be engaged in performing the Work.
- 21.02 At the request of the Builder, the Contractor shall remove from the project any person whose work performance is not satisfactory to the Builder.
- 21.03 Upon the request of the Builder, the Contractor shall supply the Builder with a copy of any collective agreement between the Contractor and any trade union.
- 21.04 Upon the request of the Builder, the Contractor shall enter into such agreements and take such actions as the Builder determines are necessary to avoid or to resolve any Work stoppage, Work slowdown or other labour dispute which would result in delay or expense to the Builder or others associated with the Site and/or Project.
- 21.05 Upon the request of the Builder or the Construction Manager the Contractor shall permanently remove from the Site any worker or employee who comes to work with beer, liquor or cannabis on their breath, or who is intoxicated or under the influence of any drug in any way that may impair their own judgment or the safety of other workers and/or brings any intoxicating beverages, cannabis or any illegal drug onto the job site.
- 21.06 The Contractor shall cooperate with the Builder in avoiding labour disputes and shall employ only workers whose work and presence shall be acceptable to other workers employed at the Site. The Contractor shall at no time employ workers at a wage that contravenes any applicable schedule made pursuant to the Industrial Standards Act or The Minimum Wage Act.
- 22.0 FORCE MAJEURE**
- 22.01 If performance by the Contractor or its obligations hereunder is prevented or delayed due to any cause or contingency beyond its reasonable control as deemed by the Builder, the Builder may cancel the balance of the Work to be performed under the Contract and may withhold from any payment due to the Contractor hereunder such monies as the Builder may determine are sufficient and reasonable to cover the cost of performing such remaining Work and to adequately protect the Builder from claims.

## 23.0 PATENTS, LICENSES, ETC.

23.01 The Contractor agrees to pay all royalties and patent licensing fees required for the performance of the Work and shall indemnify and save harmless the Builder from and against all losses, damages or claims arising out of any actual or alleged infringement or any patent by the Contractor.

## 24.0 EXPIRY OF TERM


24.01 If the Contract term has expired and the Contractor has not commenced Work under the Contract because the Builder has not authorized the Work in writing to be commenced then this Contract shall have expired and the parties shall have no rights or claims of any kind against each other.

24.02 If the Contract term has expired and the Contractor has performed part of the Work under the Contract in circumstance where the Work has been commenced but not completed, then, subject to the Builder exercising its rights under paragraph 5.02 in the event such non-completion is the fault of the Contractor, the Contractor shall complete the rest of the Work under the Contract as if the Contract had not expired within 45 days of the stated expiry date of the Contract upon the written direction of the Builder to the Contractor to do so delivered to the Contractor within five business days of the expiry date.

24.03 If the Contract term has expired and the Contractor has not commenced Work under the Contract in some residential units, areas or suites then at the option of the Builder either (i) The remaining units, areas and suites upon which the Work has not been commenced by the Contractor for any reason what-so-ever shall be deemed to have been deleted from the Contract and the parties shall have no rights or claim of any kind against each other in respect of such remaining units areas or suites, or (ii) the Contractor shall complete the Work on the remaining units, areas and suites as if the Contract has not expired within 45 days of the stated expiry date of the Contract; which option shall be exercised in writing by the Builder delivered to the Contractor within five business days of the expiry date failing which option (i) shall be deemed to have been exercised.

24.04 In the event of the Builder requesting the Contractor agreeing to complete Work within a stated number of days as herein provided, the term of the Contract shall thereby be deemed to have been extended by that number of days for all purposes under this Contract at no additional cost.

## 25.0 BONDS

25.01 ~~Prior to any payment hereunder, the Builder may require the Contractor at any time to provide and maintain in good standing, Performance and Labour & Material Payment Bonds covering the faithful performance of the obligations of the Contractor hereunder including, without limitation, the requirements of all warranties. The Contractor's actual cost of Bonds would be extra.~~ 

## 26.0 WORKERS' COMPENSATION

26.01 If the Contractor employs any person or persons for the purpose of performing its obligations hereunder, it shall obtain and deliver to the Builder a clearance certificate pursuant to the Workplace Safety and Insurance Act of Ontario from the Workplace Safety and Insurance Board and the Builder need not make payments owing to the Contractor under the Contract until such letter is delivered or, if it is delivered but then expires, until a replacement clearance certificate is delivered. If a clearance certificate is not delivered, the Builder may fulfill the Contractor's obligation under the Workplace Safety and Insurance Act at the Contractor's expense.

## 27.0 NOTICE

27.01 All notices and other communications required or permitted to be given hereunder shall be in writing, if mailed by pre-paid first class mail they shall be deemed to have been received three (3) business days after the post-marked date thereof and if a mailing hereunder is interrupted by a postal strike, three (3) business days after the strike is over; if telegraphed, telexed or faxed they shall be deemed to have been received three (3) business hours following dispatch thereof or they may be delivered by email or by hand to a responsible person engaged in the Project for the Contractor or designated by the Contractor during normal business hours at the email address or the business address of the Contractor. Any Notice of Change of Address for Notice shall be governed by this paragraph 27.01.

## 28.0 MISCELLANEOUS

28.01 This Contract shall be binding upon and ensure to the benefit of the Builder, its successors and assigns and the Contractor and its successors and permitted assigns, provided that this Contract may not be assigned in whole or in part by the Contractor without the prior written consent of the Builder.

28.02 This Contract shall be deemed to have been made in and shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and the Builder and the Contractor agree that the courts of Ontario shall have exclusive jurisdiction to entertain any action in respect of this Contract.

28.03 Time shall be of the essence of this Contract.

28.04 Unless the context otherwise requires, the singular shall include the plural and the plural the singular and the masculine shall include the feminine.

28.05 No party to this agreement shall be liable for any representation or warranty that may have been made or given by any party hereto or any agent or representative thereof, whether intentional, negligent or otherwise, in respect of this Contract or the subject matter of this Contractor, other than those representations and warranties which have been expressed in writing in this Contract.

28.06 The Builder reserves the right to interpret plans and specifications as to their true intent and meaning, and the Builder's decision on all matters in this respect shall be deemed final and binding.

## 29.0 SAFETY

29.01 The Contractor is responsible to ensure that its company and representatives at any level are in full compliance with all rules and regulations according to the Occupational Health and Safety Act and regulations for construction projects and that the Contractor ensures orientation and monitoring is provided for its employees by keeping records of individual employees.



## JOB INSTRUCTIONS

### 1. SITE EXAMINATION

The Contractor confirms having visited and examined the site prior to bidding to familiarize itself with the existing conditions. The Contractor has also carefully reviewed all drawings and specifications and reports that are applicable in any way to the Contractor's work and familiarized itself with local conditions, building construction and finishes affecting its work. The Contractor agrees that it is fully responsible for any additional costs or expenses that it may incur as a result of its failure to visit and examine the site or its failure to review applicable drawings, specifications and reports.

### 2. LIAISON

The Contractor shall attend regular site meetings and shall coordinate its Work through the Construction Manager, if the Work affects at any time the other Contractors on site, in a safe and cooperative working environment. Due to the design characteristics of this project, the Contractor shall work closely with other trades through the Construction Manager so that critical areas are installed on time and after other construction criteria have been met.

### 3. COST BREAKDOWN

Prior to its first application for payment, the Contractor shall submit a cost breakdown, as directed by the Construction Manager, to be used as a basis for payment evaluations. If the Construction Manager determines the breakdown submitted is unbalanced, it will be adjusted and the Construction Manager's decision will be final. If further breakdown is required for evaluation of work for progress payments, submit these within fourteen days of request.

### 4. CONTRACTOR'S USE OF SITE

4.1 Prior to commencing work on the site, this Contractor shall provide the following documentation:

- a) Current Workplace Safety and Insurance Board Clearance Certificate
- b) Registration of Constructors and Employers Engaged in Construction (Form 1000)
- c) Certificate of Insurance (Vandyk-Backyard Queensview Limited and Toddgen Limited to be named as additional insured)
- d) Signed Trade Contract agreement

4.2 The Contractor has reviewed the Design Drawings and other documents included in this package and has visited the site of the proposed Work and is fully aware of the site conditions affecting or likely to affect the Contract Work.

4.3 Contractors and their Subcontractors shall observe the rights of others in use of the site, and conform to directions of the Builder and the Construction Manager.

4.4 Do not unreasonably encumber the site with materials or equipment.

4.5 Move stored products or equipment which interferes with construction operations as directed by the Builder or the Construction Manager.

4.6 Obtain and pay as required for use of additional storage or work areas needed for operations.

4.7 All operations of this Contractor shall be conducted with full consideration of all the proper rights of the owners and occupants of any adjacent premises and with the least inconvenience possible to them, and without any interference with or interruptions to the operations of the said owners and occupants.

4.8 This Contractor is to cooperate with all other trades on the job, so that all equipment can be satisfactorily installed, and so that no delay is caused to any other trade.

4.9 Contractor must submit a Pre-Task Safety Form daily to the Construction Manager confirming manpower counts. Counts must include locations of work and major activities carried out.

### 5. CODES AND STANDARDS

5.1 Perform work in accordance with the current edition of the Ontario Building Code as amended, and any Local Municipal by laws, all governing authorities having jurisdiction, and Fire commissioner provided that in any case of conflict or discrepancy, the more stringent requirements shall apply if so confirmed by the Construction Manager.

5.2 Meet or exceed the requirements of the Contract documents, specified standards, codes and reference documents.

5.3 Forces implemented by this Contractor to complete the work of this Contract shall be fully equipped, qualified, trained and licensed to complete all work. It is the responsibility of this Contractor to ensure that workers, Subcontractors, Suppliers, etc. have the required proof of training, qualifications, certification, license, etc. all as required and to meet the requirements of all authorities having jurisdiction and in accordance with the Ontario College of Trades. The Construction Manager requires copies of the abovementioned to be provided upon entry to site.

5.4 All equipment and materials shall bear CGA.CSA label and conform to CGA.CSA, HEPC, ULC and ASME requirements as required.

# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1

**VANDYK**  
P R O P E R T I E S

## 6. PROJECT MEETINGS

6.1 Contractor to attend project meetings as directed by the Builder or the Construction Manager.

## 7. SETTING OUT OF WORK

7.1 Care and control of the Project and site is the full responsibility of the Builder.

7.2 Ensure the Work is carried forward in a proper manner and as expeditiously as possible.

7.3 Include funds in price for coordination of work with all subcontractors and other contractors on the project, whether or not work is included in the Contract, and arrange for execution and enforcement of all directives as issued by the Consultant, the Builder or the Construction Manager.

7.4 Assume full responsibility for and execute complete layout of work to locations, lines and elevations indicated, unless otherwise directed by the Construction Manager.

7.5 Provide devices needed to layout and construct work.

7.6 Supply stakes and other survey markers required for laying out work.

7.7 Prior to commencement of work, report in writing to the Construction Manager any discrepancies that may affect work. Commencement of the work by the Contractor will constitute acceptance of the conditions found.

7.8 The work associated with this Contract is to be completed in accordance with the project construction schedule and to meet the occupancy/closing dates applicable to individual condominium units, if applicable to the Contract Work.

7.9 The Contractor shall submit shop drawings for approval as well as "as-built" drawings prior to the last progress draw.

7.10 Permits and inspection fees are to be paid by this Contractor for their own equipment and as applicable.

7.11 This Contractor is to comply with the requirements of the both the Builder's and the Construction Manager's Health and Safety Policies and the Occupational Health and Safety Act.

7.12 This Contractor shall clear away all garbage and debris produced by its forces and removes same to garbage bins (provided by the Builder) on a daily basis to the satisfaction of the Construction Manager.

## 8. SEPARATE CONTRACTS

8.1 The Builder reserves the right to award Contracts for separate portions of work.

8.2 Separate contractors will be instructed that the Construction Manager will have control of the site. All contractors shall cooperate in all phases of work to ensure proper and expeditious completion of the project.

## 9. LOCATION OF EQUIPMENT AND FIXTURES

9.1 Location of equipment, fixtures and outlets etc. indicated or specified are to be considered as approximate.

9.2 Locate equipment, fixtures and distribution systems to provide minimum interference and maximum usable space and in accordance with the manufacturer's recommendations for safety, access and maintenance.

9.3 Inform the Construction Manager of impending installation and obtain their directives.

9.4 Submit field drawings to indicate relative position of various services and equipment when required by the Construction Manager.

## 10. OVERLOADING

10.1 Load no part of the structure during construction with loads greater than it is calculated to bear safely.

## 11. CUTTING, FITTING AND PATCHING

11.1 Execute cutting, fitting and patching required to make work fit properly.

11.2 Where new work connects with existing and where existing work is altered, cut, patch and make good to match existing work.

11.3 Obtain the Construction Manager's approval before cutting, boring or sleeving load bearing members.

11.4 Make cuts with clean, true, smooth edges. Make patches inconspicuous in final assembly.

## 12. EXISTING SERVICES

12.1 Where works involve breaking into or connecting to existing services, carry out work at times directed by governing authorities, with minimum of disturbance to pedestrian and vehicular traffic.

- 12.2 Before commencing Work, establish location and extent of service lines in area of work and notify the Construction Manager of findings.
- 12.3 Submit schedule to and obtain approval from Builder for any shutdown or closure of active service or facility. Adhere to approved schedule and provide notice to affected parties.
- 12.4 Where unknown services are encountered, immediately advise the Construction Manager and confirm findings in writing.
- 12.5 Record locations of maintained, rerouted and abandoned service lines.

### 13. ADDITIONAL DRAWINGS

- 13.1 The Consultant may furnish additional drawings to assist proper execution of the Work. These drawings will be issued for clarification only. Such drawings shall have same meaning and intent as if they were included with the drawings listed in Schedule "F".

### 14. CONTRACT DRAWINGS

- 14.1 The Contract drawings are not intended to be shop or working drawings and all measurements shall be taken from the Architectural drawings or in the field. The Contractor shall make, without any extra expense or credit to the Builder, any necessary changes or additions to the work to accommodate the Architectural or Structural conditions. Where shop or working drawings are required, the Contractor shall provide them and submit them to the Construction Manager for review and approval by the applicable Consultant.
- 14.2 The Contract drawings show the minimum standard acceptable regardless of any lesser standards set by any codes or regulations having jurisdiction.
- 14.3 The drawings listed in Schedule "F" must be examined by the Contractor to ensure that the Work may be satisfactorily completed.
- 14.4 Notify the Construction Manager upon discovery of conditions which adversely affect the Work. No allowance will be made after the award of the Contract for any expenses incurred through failure to do so.

### 15. WORKING DRAWINGS

- 15.1 Before commencing any work the Contractor may prepare working drawings. The Contractor may, if they wish, make use of the Contract drawings and specifications as working drawings. However, they shall make any necessary calculations and changes to these drawing due to any substitution of equipment, materials, location and routing in order to make the systems fully operational as per original design.
- 15.2 All changes and alterations required in either the drawings or in the work as it progresses by any authorized inspector of an authority having jurisdiction shall be carried out without any extra cost or credit to the Builder.

### 16. EXTRAS AND CREDITS

- 16.1 Submit prices for extra work or work to be deleted, with a complete breakdown as follows:
  - a) Quantities of all major items of equipment and material and total price
  - b) Total Material Cost
  - c) Total Man Hours
  - d) Total Labour
  - e) Total Overhead and Profit

### 17. MATERIALS

- 17.1 Materials and equipment are specifically named and described in the Drawings and Specifications listed in Schedule "F" to establish a standard to which the Contractor shall adhere. Where one or more Manufacturer's names are used to describe materials or equipment, the Contractor shall tender on the material or equipment specified.
- 17.2 Items of equipment of the Contractor's choice may be offered as alternatives to the items named in the specifications. The Contractor shall state in his tender the amount of the addition or deduction from the base bid if the alternatives are accepted. The Builder reserves the right to accept or reject an alternative without explanation.
- 17.3 The Contractor shall assume full responsibility that the equipment offered as an alternative is suitable for the space allocated and for any additional costs to any part of the work resulting from the acceptance of the alternative, including, without limitation, larger motor starters, larger power feeders, controls, and structural requirements.

### 18. WORKMANSHIP

- 18.1 The Contractor shall employ a responsible foreman to supervise the Work and retain this foreman on the job throughout the construction period until completion of the Work, unless otherwise approved or directed by the Construction Manager.
- 18.2 Workmanship shall be first class not only as regards to durability, efficiency and safety, but also as regards to neatness of detail.

# VANDYK – Backyard Queensview Limited

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## 19. SUBCONTRACTORS

19.1 The Contractor may Subcontract a portion of the Work to an entity other than the Subcontractors listed below only when it obtains the prior written approval of the Builder.

Subcontractor	Address	Contact	Email	Trade Work

Initial OK  
Contractor [Signature]  
Builder [Signature]



## APPENDIX "A"

### INSURANCE REQUIREMENTS

#### 1. Insurance Maintained by the Builder:

1.1 Without limiting any of the Contractor's obligations or any of the Builder's rights or remedies under the Contract Documents, the Builder shall provide, maintain, and pay for the insurance coverages listed below. The insurance shall be maintained continuously from the commencement of the work to completion of the Contract, unless stipulated otherwise:

##### A. Wrap-Up Liability Insurance:

- (i) The Builder shall maintain a project specific wrap-up liability insurance policy for the Project with a limit of not less than \$10,000,000.00 per occurrence and with a deductible not exceeding \$10,000.00 per occurrence covering all liability for bodily injury to and death of a person or persons and for property damage of others which may arise from the operations of the Builder, Contractor and any Subcontractors, the Consultants (except for their professional liability), Suppliers (only for their incidental work arising out of their operations at the Project site). It shall not include delivery Contractors and/or suppliers work while off the Project site. The policy shall be maintained until final completion of the Project, or the condominium corporation registration date, whichever occurs first.

Such insurance shall include or be included by endorsement coverage for the following:

- (a) Contingent employer's liability;
- (b) Products and completed operations for a period of 24 months after final completion of the Project, or the condominium corporation registration date, whichever occurs first;
- (c) Owner's and Contractor's protective;
- (d) Occurrence form, bodily injury and property damage;
- (e) Non-Owned automobile liability;
- (f) Limited Pollution coverage – time element – 120 Hour Reporting and Detection period;
- (g) Use of industrial machines, cranes, hoist elevators, winches, etc. unless insured under a valid automobile insurance policy, if applicable at the Project site;
- (h) Exclusions pertaining to any of the following operations to be performed by the Contractor or anyone on his behalf (including any Contractors) are to be deleted: shoring, blasting, excavating, underpinning, demolition, pile driving and caisson or similar work, use of explosives or commercially employed radioactive isotopes;

##### B. Property / Builders Risk Insurance and Boiler & Machinery / Equipment Breakdown Insurance:

- (i) The Builder shall maintain an all risks Property / Builders Risk Insurance, in the named insured of the Builder and include as insureds all Contractor(s), and all Contractors and suppliers with an insurable interest in the Project, and the Lender (if applicable) as loss payee and mortgagee, insuring not less than the replacement cost of the Project with a general deductible not exceeding \$25,000.00. Coverage shall be subject to the exclusions of the policy, and will insure against all risks of physical loss or damage occurring, including but not restricted to: earthquake, sewer back up, flood, water damage, and will cover all materials, property, structures and equipment purchased for, entering into, or forming part of the Project while at the Project site during construction, erection and installation or awaiting installation (subject to any other insurance provisions required by the Contractor or Contractors). Such insurance shall include all hard costs and recurring soft costs. Such insurance shall not include coverage for the Contractor(s) owned or leased or rented equipment of any description; and Builder will not reimburse the Contractor or Contractor for any damage to or loss or destruction of such equipment, tools, machinery, tarpaulins, scaffolding, vehicles or temporary structures owned or rented or used by the Contractor or any Contractor or Supplier. Coverage shall also extend to material for the Project in transit as well and while at temporary storage locations for materials waiting to be installed at the Project site. Transit to site and temporary storage coverage shall be subject to policy sub-limits and conditions. There will be a general deductible forming part of the policy for each and every occurrence, except where noted differently for certain perils (i.e. including but not limited to flood, sewer back up, water damage and earthquake). The policy shall be maintained until final completion of the Project, or the condominium corporation registration date, whichever occurs first;
- (ii) The Builder shall take out and maintain Boiler & Machinery / Equipment Breakdown Insurance, in the named insured of the Builder and include as insureds all Contractor(s), and all Contractors and suppliers with an insurable interest in the Project, and the Lender (if applicable) as loss payee and mortgagee, insuring not less than the replacement cost value of the Project including all boilers, pressure vessels and other insurable objects as defined in such policy forming part of the Project during the period of construction, erection, installation, testing and commissioning. There will be a deductible applicable to each occurrence and applicable to testing and commissioning. The insurance provided shall be not less than the insurance provided by a standard comprehensive boiler and machinery policy form. The policy shall be maintained until final completion of the Project, or the condominium corporation registration date, whichever occurs first.
- (iii) The policies referred to in subparagraphs 1.1.B (i) and (ii) shall allow for partial or total use or occupancy of the Project;

- (iv) The policies referred to in subparagraphs 1.1.B(i)(ii) shall contain an Insurance Bureau of Canada standard mortgage clause in favour of the Lender (if applicable);
- (v) The policies referred to in subparagraphs 1.1.B(i)(ii) shall provide that, in the case of loss or damage, payment shall be made to the Builder and the Lender as their respective interests may appear;
- (vi) The Builder shall act on behalf of the Contractor and any Subcontractor and suppliers with an insurable interest, for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined the Contractor shall proceed to restore the Project in accordance with Contractor's scope of work per Contract agreement. Loss or damage shall not affect the rights or obligations of either party under the Contract except that the Contractor shall be entitled to a reasonable extension of the Contract time relative to the extent of the loss or damage as the lead consultant may recommend in consultation with the Contractor and the Builder and as the Builder may agree in writing;
- (vii) In the event of damage to or loss or destruction of any of the Project, or any of the products or materials, or Contractor's work at the Project site which are to be incorporated into the Project, the Contractor shall immediately notify the Builder, and the Builder shall thereupon determine the extent of the repairs, restoration, or replacement required in order to make good the damage or destruction, and the Contractor shall proceed promptly and with all due diligence to repair, restore or replace the products or materials of the Project to the extent necessary to make good the damage or destruction. The Contractor shall co-operate with the lead consultant and the Builder in adjusting any insurance claims and in determining the extent of the repairs, restoration, or replacement required in order to make good the damage or destruction. The Builder shall reimburse the Contractor to the extent that coverage is afforded by the insurance maintained by the Builder. The amount to be reimbursed to the Contractor for such repairs, restoration, and replacement shall be paid by the Builder in installments upon production of the Builder's and lead consultant's certificates as to the progress of such repairs and replacement in accordance with payments section of Contract; provided, however, that this clause shall not extend or apply to, nor shall the Builder reimburse the Contractor for, any damage to or loss or destruction of any working tools, equipment, machinery, tarpaulins, vehicles or temporary structures owned or rented or used by the Contractor or any Contractor or supplier. Notwithstanding the foregoing, the Builder may at its own discretion elect to have others perform the work necessary to repair, restore or replace the damaged products or materials, or Contractor's work at the Project site.

## 1.2 General Provisions Regarding Insurance Policies maintained by the Builder:

- (1) Each policy of insurance maintained by the Builder shall provide that 60 days' prior written notice be given to the Builder, and the Lender (if applicable) before any policy is suspended, materially detrimentally altered or cancelled;
- (2) Each policy of insurance maintained by the Builder shall name the Builder as named insured, the Lender (if applicable) as loss payee and mortgagee, and the Contractor and Contractors or suppliers as insureds as their interests may appear;
- (3) The party whose negligence, actions or omissions or who is responsible at law for a person whose actions or omissions have resulted in damage or loss to the project or injury in respect of which there are insurance claims, shall be responsible for paying any applicable deductible amounts under the policies of insurance maintained by the Builder;
- (4) At the written request of the Contractor or Lender (if applicable), the Builder shall produce a certificate of insurance evidencing the forgoing insurance maintained by the Builder.

## 2. Insurance Policies to be maintained by the Contractor and Subcontractors:

Without limiting any of the Contractor's and Subcontractor's obligations or any of the Builder's rights or remedies under the Contract, the Contractor and any Subcontractor, shall provide, maintain, and pay for the insurance coverages listed in this paragraph. The insurance shall be maintained continuously from the commencement of the Contracted work to completion of the Contract, unless stipulated otherwise.

### A. Automobile Liability Insurance

The Contractor shall maintain automobile liability insurance in respect of licensed vehicles with limits of not less than \$2,000,000.00 (or a lower limit if duly authorized by the Builder in writing) inclusive per occurrence for bodily injury, death and damage to property, covering all licensed vehicles owned or leased by the Contractor. Where the policy has been issued pursuant to a government operated automobile insurance system, the Contractor shall provide the Builder with confirmation of automobile insurance coverage for all automobiles registered in the name of the Contractor. Such Insurance shall be obligated to any of the Contractor's Contractors or their employees or agents.

### B. Aircraft and Watercraft Insurance

If applicable, the Contractor shall maintain an aircraft and watercraft insurance policy with respect to owned or non-owned aircraft and water craft if used directly or indirectly in the performance of this Contract. Such insurance shall be subject to limits of not less than \$10,000,000.00 inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof and limits of not less than \$10,000,000.00 for aircraft passenger hazard and a property damage deductible not exceeding \$50,000.00. Such insurance shall be in a form acceptable to the Builder and the Lender, each acting reasonably, and shall be endorsed to name the Builder, the Lender (if applicable), as additional insureds, and shall contain a severability of interests clause.



C. Marine Cargo Insurance

If applicable, the Contractor shall maintain a marine insurance policy to fully insure all ocean, coastal and inland waterway shipments in transit. Such insurance will cover the full replacement value of the products or materials being shipped, insurance, freight plus 10% and will be in the joint names of the Builder, the Lender (if applicable), the Contractor as their interests may appear. The Contractor shall not waive the Contractor's nor the Builder's nor the Lender's rights of recovery against any common carrier.

D. Contractor's and Contractor's Equipment Insurance

The Contractor and any Subcontractors maintain, all risk Contractors' equipment insurance (subject to standard industry exclusions on such policies) including boiler insurance on temporary boilers and pressure vessels, if applicable, covering all owned, leased or rented machinery, tools, tarpaulins, temporary structures and equipment used by the Contractor or Contractor for the performance of the Contracted work. Such insurance shall be in a form acceptable to the Builder and any applicable policy deductibles will be the responsibility of the Contractor.

E. Property Insurance

The Contractor and Contractors shall maintain property insurance coverage in the form commonly known in the insurance industry as "installation floater" coverage that includes the Contractor's materials, supplies, products and labour entering into the Project site, as per Contract from date of commencement of work until completion of work and accepted by the Builder. The property coverage shall be in an all risks form (subject to standard policy exclusions) in the name of the Contractor covering the full replacement value of any materials, supplies, products and labour (including those provided by the Builder or any supplier for incorporation into the Contractor's work) which will form part of the Contractor's work, with general deductible not exceeding \$5,000.00. Such coverage shall also apply during off-site temporary storage, transit to the Project site, and at the Project site while waiting to be installed and until fully installed. The insured limit should be equal to or greater than the replacement cost value of the maximum amount any one occurrence of such work including Contractor's materials, supplies, products and labour entering into the Project site.

F. Commercial General Liability Insurance

Commercial general liability insurance shall be carried by the Contractor and any Subcontractor with respect to any off-site operations or with respect to coverages not otherwise included in such policies maintained by the Builder during the construction of the Project. Such coverage shall be maintained from commencement of Contracted work until the date of termination of coverage afforded under any Wrap-Up Liability coverage maintained by the Builder. Completed Operations coverage shall also be included on the commercial general liability policy for all operations performed by the Contractor and any Subcontractor. This coverage shall be maintained for a period of 5 (five) years from the date of termination of the Wrap-Up Liability policy maintained by the Builder.

The Commercial general liability insurance maintained shall also include:

- (i) An endorsement adding VANDYK-Backyard Queensview Limited and Toddglen Limited as "Additional Insured", with respect to liability arising out of the operations of the Contractor in relation to the Project ;
- (ii) Provide limits of at least \$5,000,000.00 each occurrence, bodily injury and property damage combined and at least \$5,000,000.00 general aggregate and \$5,000,000.00 products & completed operations aggregate, or higher limits that might be reasonably required by the Builder. Such insured limits may be achieved in the form a primary liability policy and umbrella or excess liability policy. The Builder reserves to the right to review the limits of insurance required per Contractor and Contractor based on their scope of work at the Project and operations per Contract, and when advised in writing, the Builder may require higher limits to be maintained by Contractor or Contractor. Such insurance shall contain a deductible, not to exceed \$5,000.00 (or as approved by Builder) in an amount approved by the Builder but it shall only apply to loss resulting from bodily injury or property damage, including loss of use thereof and shall be the responsibility of the Contractor or Contractor;
- (iii) Coverage for, but not limited to:
  - Premises and operations liability;
  - Property damage on an occurrence basis;
  - Broad form property damage;
  - Owners and Contractors protective liability;
  - Personal injury insurance;
  - Broad form completed operations;
  - Products and completed operations;
  - Blanket Contractual liability;
  - Elevator and hoist liability if applicable;
  - Contingent employers liability with respect to employees covered by workplace health & safety and employers liability for any employees not covered by workplace health & safety;
  - Include directors, officers, employees and shareholders of the Contractor as protected insureds;
  - Incidental malpractice;
  - No exclusion for work performed under a project specific Wrap-Up Liability insurance plan;
  - Lift / Hoist / Riggers liability insuring the replacement cost of any materials or objects being lifted / hoisted at the Project site;

- Non-Owned automobile liability;
  - Cross liability/severability of interest clause
  - Contingent Wrap Up Liability Extension and Excess Wrap Up Extension (if applicable)
  - Indicate to the Builder in writing if any specific policy warranties apply to the Contractor's liability policy maintained (ex. Welding / Hot works warranty etc.);
- (iv) Such liability coverage maintained shall not contain any exclusions for operations performed with respect to the following operations whether performed by the Contractor or Contractor or Supplier (if applicable to the work performed):
- Blasting or the use of explosives or radioactive isotopes;
  - Pile driving;
  - Excavation;
  - Underpinning, shoring, removal or rebuilding of support;
  - Demolition;
  - Drilling, de-watering or caisson work; or
  - Any other excluded exposures or operations that would be performed under this Contract.

#### G. Professional Liability (Errors & Omissions Liability)

Unless otherwise placed by the Builder on a project specific format, should any Contractor or Contractor or Consultant, or Engineer or Architect engage in any professional service or consulting for rendering or performance of services including design of any type as part of their scope of work (including but not limited to modification or installation on all or any part of an automatic sprinkler system), in addition to general coverages noted above, such professional consultants shall maintain Errors & Omissions Liability (also referred to as Professional Liability) in amounts no less than \$5,000,000.00 (or lower if approved by the Builder or higher as may be reasonably required by the Builder) per claim and in the aggregate. Such coverage shall include pollution or contamination losses arising out of the error or omission in rendering or failure to render professional design or related services in connection with the design of the work. A Claims Made form is acceptable. Deductibles or self-insured retentions shall not exceed \$10,000.00 (or as otherwise approved by the Builder). Coverage shall be maintained for both an extended discovery period and reporting period of a minimum 36 Months following acceptance of the work and shall be with insurers licensed to do business in the Province of Ontario and with an acceptable industry rating. Proof of such insurance shall be provided to the Builder prior to commencement of design and thereafter on an annual basis until the extended discovery and reported period has been completed. As requested by the Builder, a letter from the insurer shall be provided indicating any claims outstanding prior to commencement of design. Such coverage shall provide the Builder with 30 days prior written notice of cancellation, termination, lapse or non-renewal. Should the Builder maintain a project specific policy covering all consultants, such consultants shall also provide evidence of ongoing practice policy coverages in effect up to completion of the Project.

#### H. Environmental Liability (Contractors Pollution Liability)

Unless otherwise placed by the Builder on a project specific format, should a Contractor or Contractor provide scope of work or services involving remediation, environmentally sensitive operations and/or such coverage deemed necessary by the Builder, such Contractor or Contractor, in addition to the general insurances noted, shall maintain Contractors Pollution Liability for limits of not less than \$2,000,000.00 per occurrence or higher limits as the Builder may deem reasonably required from time to time, with any general aggregates to be clearly disclosed and of a form specific to their operations and exposures. Claims made forms must be disclosed in advance and approved by the Builder. Policy deductible or self-insured retention not to exceed \$10,000.00 (unless approved differently by Builder). Such coverage shall include third party liability claims for bodily injury or property damage including but not limited to clean-up costs (first party and third party). Such coverage shall be with insurers licensed to do business in the Province of Ontario and with an acceptable industry rating. Proof of such insurance shall be provided to the Builder prior to commencement of any such work. Such coverage shall be maintained for a period of two years after the date of completion of the work. Such coverage shall not be of the "120 Hour Sudden & Accidental" format. Such coverage shall provide the Builder with 30 days prior written notice of cancellation, termination, lapse or non-renewal.

#### General Provisions Regarding Insurance Policies maintained by the Contractor and Subcontractors:

- (1) Each policy of insurance maintained by the Contractor and any Subcontractor shall be endorsed to provide the Builder with not less than 30 days' notice (except with respect to Automobile Liability, 15 days shall apply) in writing in advance of cancellation, non-renewal, lapse, termination or materially detrimentally altered in coverages, except where statutory conditions apply;
- (2) Each policy of insurance maintained by the Contractor and any Subcontractor (other than Contractors' Equipment, Auto Liability and Property insurance) shall be endorsed to name the Builder and the Lender (if applicable), as additional insureds and/or loss payees as applicable and as their interests may appear;
- (3) The Contractor or any Subcontractor shall be responsible for paying any deductible amounts under the policies of insurance maintained by the Contractor or any Subcontractor;
- (4) The Contractor and any Subcontractor shall produce a Certificate of Insurance evidencing the forgoing insurance to the Builder, before the Contractor or Subcontractor commences any work under the Contract, and from time to time upon request as the work progresses and shall, upon request, make arrangements to allow the Builder to review the original insurance policies maintained by the Contractor or Subcontractor;
- (5) With respect to the Contractors Equipment and Property insurance, such policies shall contain a waiver of subrogation rights which the insurers may have against the Builder, the Lender (if applicable), and those for whom such parties are responsible in law, whether the damage is caused by the act, omission or negligence of any of such persons.

## APPENDIX "B"

### LIST OF CONSULTANTS

1. Architect: Kohn Partnership Architects Inc  
501-116 Spadina Avenue  
Toronto, ON M5K 2K6
2. Civil: Masongsong Associates Engineering Limited  
201-7800 Kennedy Road  
Markham, ON L3R 2C7
3. Electrical: SNC-Lavalin Infrastructure & Construction  
235 Lesmill Road  
Toronto, ON M3B 2V1
4. Mechanical: SNC-Lavalin Infrastructure & Construction  
235 Lesmill Road  
Toronto, ON M3B 2V1
5. Structural: Read Jones Christoffersen Ltd.  
500-144 Front Street West  
Toronto, ON M5J 2L7
6. Shoring: Tarra Engineering & Structural Consultants  
300-2800 14<sup>th</sup> Avenue  
Markham, ON L3R 0E4
7. Landscape: Baker Turner  
8501 Mississauga Road  
Brampton, ON L6Y 5G8



## SCHEDULE A

### SCOPE OF WORK

TRADE: 11452

CONTRACTOR: TA APPLIANCE INC.

WORK: APPLIANCES

#### 1.0 General

- 1.1 It is the intent of this Contract that all items not shown, but normally included under this Contractor's section, be included as part of this Contractor's work. This Contractor agrees that it will perform all work required to complete the work in accordance with the spirit and intent of this agreement including all plans and specifications and to conventional and good trade practices, at no extra charge, even if not specifically reflected on the plans and specifications.
- 1.2 The Contractor is responsible to complete deficiency repairs on Pre-Delivery Inspections (PDI's) within two weeks of receiving the deficiencies list(s). The Contractor is responsible to contact homeowners and schedule appointments to complete deficiency repairs. Completed repairs must have a signature from the homeowner to acknowledge completion. A copy of the signed completion form must be forwarded to the Construction Manager. If a homeowner is not home the Builder will designate an appropriate person to provide a signature for the completed work. At no time will the Builder or Construction Manager make appointments, provide a key runner or a chaperone on behalf of the Contractor. A fee of \$250 will be charged should there be a missed appointment by the Contractor with a homeowner and/or no formal and timely notice is provided prior to the cancellation/no shows.
- 1.3 Complete layout of this Contractor's work and confirmation of onsite dimensions and measurements prior to fabrication of this Contractor's work and/or materials to ensure there is no interference with other Contractor's work and/or materials which may cause the work and/or material to be changed as a result.
- 1.4 Temporary room(s) may be provided by site for storage of hardware, tools and trim material depending upon availability, Contractor is advised to have their own portable storage for their tools, hardware and other materials.
- 1.5 The Contractor is responsible to coordinate their work with other site trades and the Construction Manager. It is not the responsibility of the Builder to coordinate the Contractor(s) internal work (i.e. plumbing pipe in the way of hvac duct). The Contractor also understands that there are multiple mobilizations required for all suite(s) and common areas and there shall be no charges given to the Builder for multiple mobilizations of this Contractor or as a result of another Contractor.
- 1.6 Coordination between all trades shall be made in relation to any openings that may interfere with the architectural, structural, electrical, mechanical and interior design drawings.
- 1.7 Distribution of material throughout the project shall be the responsibility of this Contractor (ie. Bringing material from storage or off site to required work area in the building such as a suite). The Contractor shall provide their own labour, tools and equipment as required to distribute material, equipment, tools etc. to the work area in and around the building as required.
- 1.8 This Contractor shall have sufficient crews and equipment to carry out the work according to the dictates of the schedule without delays. This may necessitate the use of several crews and equipment at a time. Coordinate the start of the work, sequence and schedule in accordance with our project schedule and/or as directed by the Site Superintendent.
- 1.9 The Construction Manager must be notified of any discrepancies with suite or common area layout(s) in writing prior to commencement of any work in that affected area.
- 1.10 Delivery, offloading, storage, protection and hoisting of this Contractor's equipment and materials are included in the Contract price.
- 1.11 Provide detailed delivery dates for all major equipment and materials provided by this Contractor. Lead times and delivery dates to be provided to the Construction Manager in writing (ie. via email), and confirmation of the delivery dates must be received by the Contractor from the Construction Manager.
- 1.12 Work of this Contractor shall be completed to the satisfaction of the Builder, Consultants, and all authorities having jurisdiction. Any defects, flaws, detailed connections or abutments to adjacent materials, poor installation, scratches and any other items that may be considered unsatisfactory to Owner, Consultants and all authorities having jurisdiction shall be replaced at no cost or additional charge.
- 1.13 Start of this Contractors work implies acceptance of the previous contractors work. This Contractor will be held to have examined the premises and satisfied himself as to the existing conditions under which he shall be obliged to operate or that will in any manner affect the work under this Contract. No allowances will be made subsequently in this connection by this Contractor for any error or negligence on his part.
- 1.14 In compliance with the requirements of the Workplace Safety & Insurance Act, Section 141.1, this Contractor and any of its Subcontractors, with each and every draw and as a condition of payment, shall provide a WSIB Certificate of good standing.
- 1.15 All work to conform to Local, Provincial and National building codes.

# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1

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P R O P E R T I E S

- 1.16 A digital copy of the appliance cut sheets, maintenance instructions, warranty letter and any other items that may reasonably be requested for Property Management shall be provided to the Builder prior to building registration.
- 1.17 Provide proper protection to work in progress so as to prevent any workers from getting injured.
- 1.18 No claims for delay or lost time will be accepted by the Builder due to bad weather conditions.
- 1.19 Non-Performance: This Contractor is responsible for any and all costs associated with the inconvenience and/or delay to the Builder to correct, replace or otherwise make good all work within this scope of work or part thereof that does not meet the performance requirement. Defects to include, but not limited to materials and/or installation. Final determination on any remedial action will be made by the Builder.
- 1.20 This Contractor shall take sufficient precautions and care and use due diligence in carrying out this work to ensure that curbs, roads and neighbour's buildings, fencing, equipment or property are not damaged or otherwise adversely affected. Where such damage occurs, this Contractor shall rectify it immediately and completely to the original condition, at its sole expense.
- 1.21 The operations of this Contractor shall be conducted with full consideration of all proper rights of the owners and occupants of the adjacent premises and with the least inconvenience possible to them, and without any interference with no interruptions to the operations to the said owners or occupants.
- 1.22 All extras to Contract must be covered by a Contract Change Order and accompanied with a completion slip signed by an authorized employee of the Construction Manager and must be invoiced separately from the Contract work.
- 1.23 The undersigned Contractor agrees to comply with all applicable safety legislation, including but not limited to, the Occupational Health & Safety Act, Regulations for Construction Projects (213/91), Workplace Hazardous Materials Information System (WHMIS), etc. The Contractor also agrees to abide by and provide written acknowledgement of, the Site Safety Policies and Contractor Guidelines to be included as an addendum to this Contract. The Contractor will supply the Construction Manager with a copy of their Safety Policy. The Contractor shall comply with all instructions of the Construction Manager with respect to safety. The Contractor is fully responsible for the payment of any fine and/or cost levied by the Governing Authorities.
- 1.24 Work, and shipment of materials, is to proceed in accordance with the schedules provided by the Builder, or as directed by the Construction Manager. Weekend work is included, as required, to maintain project schedule.
- 1.25 The Builder relies on the knowledge and expertise of the Contractor to notify the Builder of any efficiencies available prior to commencement of any work
- 1.26 The Builder relies on the knowledge and expertise of the Contractor to notify the Builder of any in-efficiencies or code discrepancies prior to commencement of work that would otherwise result in rework or redesign of the affected area. The Builder will not be responsible for work completed that does not meet code if the Contractor should have reasonably known that the item does not meet code.
- 1.27 It is the responsibility of the Contractor to review the color charts and make the necessary changes to the suite(s). The Builder will not be held responsible for missing information from the color charts posted in the suites as trades tend to take them or throw them away. The Builder will not be held responsible for any work done incorrectly because the trade did not follow the colour chart(s) or simply followed the previous trades work in error. i.e. the framer incorrectly lays out a suite and mechanical Contractor(s) rough in the suite based off of what the framer has built. The Contractor shall do their own due diligence in walking suites to make sure color chart changes have not been missed or have been installed as per color charts.
- 1.28 No substitution of materials shall be permitted unless prior arrangements are made before delivery and agreed upon in writing by all parties affected.
- 1.29 If a price due to a contemplated change order is not provided within 7 business days, the Builder will deem the price to be zero and the work will be completed as per the contemplated change order at no extra cost so as to not delay the project.
- 1.30 Holdback will be released in accordance with the lien legislation at the place of work. Before making final payment, the Builder will require the Contractor to furnish a Workers' Compensation Board "Certificate of Clearance", satisfactory evidence that all workers performing work, all suppliers furnishing materials and all Contractors employed in completing the work, have been paid in full. Workers' Compensation coverage must be ensured and a certificate of clearance shall be provided every 45 days through the project.
- 1.31 The Contractor shall employ a "competent" supervisor who shall be in attendance at the place of work while the work is being performed.
- 1.32 If the Contractor should neglect to complete the work in a prompt, safe and diligent manner or otherwise fails to comply with the requirements of the Contract, the Builder may notify the Contractor that the Contractor is in default of his Contractual obligations and instruct the Contractor to correct the default within three (3) working days of such notice. If the Contractor shall fail to correct such default the Builder shall have the right to terminate the Contract and the Contractor will be liable to the Builder for any such additional expense for which the Contractor has been responsible.
- 1.33 The Contractors are responsible for maintaining their work in a tidy condition and for the clean-up of all accumulations of their waste products and debris (on a daily basis). Any clean-up of materials by the Builder will be back charged to the applicable Contractor, plus a fifteen (15%) administration fee.
- 1.34 Should a dispute arise between the Contractor and the Builder or the Contractor with another contractor the project Consultant(s) shall render a decision. If that decision does not resolve the dispute then the dispute will go to binding arbitration for resolution.
- 1.35 If a shop drawing is submitted and it does not match the intent of the drawings and/or is approved by the Consultant in error the Contractor shall be deemed liable and will need to replace the equipment at their own expense to match the intent of the drawings.



# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1



- 1.36 If an alternate solution, product, method of install, material or equipment is submitted to the Consultant the Contractor shall flag the submittal in such a way that the Consultant is fully aware that this is outside of what was originally specified by the Consultant.
- 1.37 It is the responsibility of Contractor to sign/receive delivery of equipment and material. The Contractor is responsible to verify quantities of delivered equipment and material on the delivery sheet. Storage of equipment and material shall be the responsibility of the Contractor. The Builder will not be held responsible for lost, missing or damaged equipment, material and related parts. The Contractor is responsible for the material and equipment until the time of installation and full operation of the equipment and material.

## 2. Specific Scope of Work

- 2.1 Documentation:
  - a) Architectural, electrical and mechanical drawings as per the attached Drawing List – Schedule F.

- 2.2 Schedule A of this Contract supersedes all of the following items:

- 2.2.1 If there is a conflict within the Contract Documents:
  - .1 the order of priority of documents, from highest to lowest, shall be
    - The Agreement between the Owner and the Contractor,
    - The Definitions,
    - Supplementary Conditions,
    - The General Conditions,
    - Division 1 of the Specifications,
    - Technical Specifications,
    - Material and finishing schedules,
    - The Drawings.
  - .2 Drawings of larger scale shall govern over those of smaller scale of the same date.
  - .3 dimensions shown on Drawings shall govern over dimensions scaled from Drawings.
  - .4 later dated documents shall govern over earlier documents of the same type.  
to each individual suite

- 2.3 Supply, delivery, placement and installation of the following appliances: *AK*

Model	Quantity	Description
956347	2	Natural gas 8roll King Regal stainless steel barbeque
FRBC1235AV	134	Frigidaire SD 24" bottom freezer refrigerator
CFEF2422RS	134	24" Frigidaire smooth top range
FFMV1846VS	134	Frigidaire OTR microwave
FFCD2413US	134	24" Frigidaire dishwasher with built in plastic tub
FLCE752CAW	134	27" 1 piece stackable top load laundry set
DWT61800FBI	1	Blomberg panel ready dishwasher
RS36A72J1N	1	Fisher & Paykel panel ready French door refrigerator
NNSD786S	1	Panasonic microwave
NNTK732S	1	Trim kit
FFEW3025TS	1	Frigidaire wall oven
	134	Hoses and venting
	134	Installation
	134	Delivery

Hardwired connection with hose & vent *AK*

and leveling *AK*

- 2.4 Delivery schedule to be provided by the Construction Manager.
- 2.5 Contractor to determine refrigerator door swing based on the Architectural drawings.
- 2.6 All installations are to occur within 24 hours of the delivery date.
- 2.7 All installations are to be signed off by the Construction Manager's supervisory team the day of installation. Signed delivery slips to be provided with all invoices.
- 2.8 Any inadequate conditions which prevent installation of the appliances must be brought to the Construction Manager's supervisory team's attention immediately and installation is to be rescheduled as soon as the condition is corrected.
- 2.9 Contractor to remove all packaging from site.
- 2.10 Contractor to provide a digital copy of all appliance cut sheets to the Contractor upon Contract award. *AK*
- 2.11 Invoicing to be processed when appliances have been supplied and installed.

### Noise Control

- 2.12 Start/Finish time of work to follow the City Of Toronto Noise Bylaws.  
Monday to Friday – 7:00 a.m. to 7:00 p.m.  
Saturdays – 9:00 a.m. to 7:00 p.m.
- 2.13 Start-up of machines prior to the above start times is strictly prohibited. Any fines received from the City as a result of noise outside of the allowable hours will be the responsibility of the contractor in contravention of the Bylaw.

Initial *AK* *AK*  
Contractor Builder



**FEATURES & FINISHES**



# FEATURES & FINISHES

## Building Features

- Intimate, boutique building with ten residential floors.
- Executive concierge in front lobby available for daily assistance.
- Exterior lighting showcasing the building's architecture and design while promoting safety.
- Fitness centre with cardio and weight equipment leads to an adjoining wrap-around terrace.
- Dining/conference room for private functions.
- Family friendly children's play/craft area.
- Pet grooming facilities.
- Designer-decorated party room for private functions with kitchen/bar area.
- Outdoor lounge complete with fire pit and barbeque area.
- A private guest suite for overnight visitors.
- Mail area and parcel room conveniently located off front lobby.
- Key FOB controlled access system at key entry points and garage.
- Security cameras on ground floor lobby and parking garage lobby with emergency assist buttons.
- Waste management and recycling system with disposal chute access on each floor.
- Two elevators accessible from parking garage to roof.
- Four and a half levels of underground parking.
- Abundance of secure resident bicycle parking available.
- Bicycle parking on exterior grounds for visitors.

## Suite Features

- Innovative suite designs featuring 9' high ceilings in principal rooms on floors 2-10 and soaring 10' ceiling heights on the first floor.<sup>1</sup>
- Smooth ceilings throughout painted flat white.
- Solid-core suite entry door with guest-viewer and contemporary hardware.
- Thermally insulated Low-E energy efficient double glazed suite windows.
- Interior doors painted white throughout, as per applicable plan.
- Contemporary satin chrome finish lever door handles on interior doors.
- Mirrored sliding closet doors at front entrance, as per applicable plan.
- Spacious walk-in closets, as per applicable plan.
- Vinyl coated wire shelving in all closets.
- Flat latex off-white paint throughout.
- 4" baseboards with coordinating 2 3/4" door casing throughout, painted white.
- Embossed laminate flooring throughout, excluding bathroom and laundry areas.
- All suites feature either a balcony, a patio or a terrace, as per applicable plan.<sup>2</sup>

## Kitchens

- Contemporary style kitchens featuring two-tone cabinetry in a mix of wood grain laminate and solid colour laminate selections.
- Modern straight edge quartz countertop.
- Deep upper cabinet above fridge.
- Upper cabinets feature integrated valance.<sup>3</sup>
- Oversized ceramic tile backsplash.

- Stainless steel undermount single basin sink with functional dual spray faucet.
- Sleek stainless steel appliances include:
  - Counter depth 24" fridge and dishwasher
  - Slide-in 24" smooth top range
  - 30" over-the-range microwave with hood fan

## Bathrooms

- Contemporary vanity with recessed kick plate.
- White solid surface integrated sink and vanity top.
- Vanity width mirror with polished edges.
- Acrylic bathtub with full height porcelain wall tile surround, as per applicable plan.
- Chrome framed shower glass enclosure and door on acrylic shower base with full height ceramic wall tile surround, as per applicable plan.
- Stylish square shower head features chrome fixtures.
- Wall-mounted vanity light and pot light in shower stalls, as per applicable plan.
- Porcelain floor tiles in all bathrooms.
- All white plumbing fixtures and chrome single lever faucets.
- Pressure balancing tub/shower controls.

## Laundry

- White ceramic floor tile in laundry areas
- White full size stacked washer and dryer
- Heavy duty wiring and receptacle for dryer

## Lighting, Electrical, Data & HVAC Systems

- White Decora style switches and receptacles throughout.
- Track halogen lighting in the kitchen.
- Ceiling mounted light fixtures in foyer, hallway, den, bedrooms, walk-in closets and laundry rooms.
- Electrical panel with circuit breakers in each suite.
- Fiber Optic Service to the suite providing phone, internet and cable.
- Year round individually controlled heating and cooling system.<sup>4</sup>

<sup>1</sup> Designer ceilings and bulkheads may occur to accommodate heating, ventilation and cooling systems, electrical and mechanical systems or to satisfy the requirements of the Ontario Building Code. All ceiling heights are approximate.  
<sup>2</sup> Terrace conditions may require an interior step to access the outdoor space.  
<sup>3</sup> Lighting system is a decor upgrade.  
<sup>4</sup> Heat pump unit.

Features may vary depending on model type. All finishes and fixtures are as per Vendor's standard samples. Notwithstanding anything contained in this Schedule A, there is no warranty or representation, collateral agreement or condition contained here in on the part of the Vendor as to any matter with respect to materials and finishes.

The Purchaser acknowledges that only the items listed in the Schedule are included in the Purchase Price and that the model suite furnishings and appliances, door and upgrades, artist renderings, scale models, improvements, mirrors, built-in cabinetry, window coverings, track and wall coverings, light fixtures, and design treatments including wallpaper, hardwood and tile displays in suite, and furnished layouts shown, labeled, and/or captured on marketing materials are not included in the Purchase Price unless specified in this schedule.

All dimensions are approximate. The Purchaser acknowledges that there shall be no reduction on the price or credit for any standard features listed herein which is omitted at the purchaser's request.

All specifications are subject to change without notice. E.O.E.

# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1



## SCHEDULE "B"

### CONTRACT PRICES

TRADE: 11452

CONTRACTOR: TA APPLIANCE INC.

WORK: APPLIANCES

**Contract Price:**

Four hundred sixty thousand six hundred and twenty dollars (\$460,620.00) plus HST.

Model	Quantity	Description	Cost Per	Total Cost
956347	2	Natural gas Broil King Regal stainless steel barbeque	\$0.00	\$0.00
FRBC1235AV	134	Frigidaire SD 24" bottom freezer refrigerator	\$819.00	\$109,746.00
CFEF2422RS	134	24" Frigidaire smooth top range	\$736.00	\$98,624.00
FFMV1846VS	134	Frigidaire OTR microwave	\$232.00	\$31,088.00
FFCD2413US	134	24" Frigidaire dishwasher with built in plastic tub	\$348.00	\$46,632.00
FLCE752CAW	134	27" 1 piece stackable top load laundry set	\$996.00	\$133,464.00
DWT51600FBI	1	Blomberg panel ready dishwasher	\$847.00	\$847.00
RS36A72J1N	1	Fisher & Paykel panel ready French door refrigerator	\$3,119.00	\$3,119.00
NNSD786S	1	Panasonic microwave	\$266.00	\$266.00
NNTK732S	1	Trim kit	\$187.00	\$187.00
FFEW3025TS	1	Frigidaire wall oven	\$1,137.00	\$1,137.00
	134	Hoses and venting	\$30.00	\$4,020.00
	134	Installation	\$235.00	\$31,490.00
	134	Delivery	\$0.00	\$0.00
				<b>\$460,620.00</b>

Pricing valid until December 31, 2022.

Invoice Breakdown

Contractor to provide proposed schedule of values breakdown for billing purposes as per Schedule G.

# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1



## SCHEDULE "C"

### EXTRAS TO CONTRACT PRICE

#### Itemized / Separate Prices

1.		
2.		
3.		
4.		
5.		

Initial   
Contractor  Builder

# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1

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## SCHEDULE "D"

### PROJECT RULES

**This Contractor agrees to comply with the following "Project Rules" as posted at the project site. Non-compliance may result in penalties assessed to the Contractor.**

#### **"Project Rules" include:**

1. No parking at driveways or on public roads and areas where parking is not permitted. Any fines or tickets will be the responsibility of the Contractor.
2. No pets allowed on the project at any time.
3. The consumption of illegal substances, alcohol or cannabis will not be tolerated and is cause for ejection from the site and Contract termination.
4. All rubbish (lunch, food, coffee cups) must be placed in bins provided otherwise back charges will be levied.
5. The Contractor shall keep the premises in or about which the work is to be done, free each day from waste material or rubbish caused by the Contractor its Subcontractors and employees. The Contractor shall, prior to or upon the completion of the Work, remove all waste materials, rubbish, tools, scaffolding, equipment and surplus materials from the said premises and upon completion of the Work, leave the area "broom swept clean" and garbage disposed at the instruction of the site superintendent. In the event of any dispute, the Construction Manager may remove the rubbish and back charge the labour and other costs to the Contractor. In the event of any dispute regarding removal of waste products, tools and equipment, the Construction Manager may have these areas cleaned and back charge the Contractor for the cost of the clean-up.
6. Do not set tools, materials or trash on tubs, countertops, broadloom, tiles, marbles, vinyl, or other finished areas.
7. Portable toilets will be available. Use of suite toilets is strictly prohibited.
8. No eating, drinking or smoking is permitted in suites.
9. Absolutely no additional work is to be performed for potential purchasers without express written approval by the Builder or the Construction Manager. Unapproved work will be removed and may result in termination of the Contract.
10. All Contractor personnel must be oriented for safety and must report to the main site office whenever leaving or entering site and prior to deliveries.
11. All operations of this Contractor shall be conducted with full consideration of all the proper rights of the Owners and Operators of adjacent properties and with the least disruption as possible to them and without any interference with or interruptions to the operations to the said owners or occupants.
12. The Contractor agrees to comply with all applicable safety legislation, including but not limited to, the Occupational Health & Safety Act Regulations for Construction Projects (213/91), Workplace Hazardous Materials Information System (WHMIS), etc. The Contractor also agrees to abide by and provide written acknowledgement of the Vandyk Group of Companies Contractor's Safety Program included as an addendum to this Contract. The Contractor will supply the Construction Manager with a copy of their Safety Policy. The Contractor shall comply with all instructions of the Construction Manager with respect to safety. The Contractor is fully responsible for the payment of any fine and/or cost levied by the Governing Authorities.

**SCHEDULE "E"**

**WSIB FORM 1000**



**Ontario**

Ontario  
Ministry  
of Labour

Ministère du  
Travail  
de l'Ontario

**Registration of Constructors and Employers Engaged in Construction**  
**Inscription des constructeurs et des employeurs associés à des travaux de construction**

Pursuant to section 5 of the Construction Regulations made under the OHSA, "Before beginning work at a project, each constructor and employer engaged in construction shall complete an approved registration form. The constructor shall ensure that each employer at the project provides to the constructor a completed approved registration form; and a copy of the employer's completed form is kept at the project while the employer is working there."

Conformément à l'article 5 du règlement intitulé Construction Projects, pris en application de la Loi sur la santé et la sécurité au travail, «les constructeurs et les employeurs associés à des travaux de construction doivent remplir un formulaire officiel avant de commencer leurs travaux. Les constructeurs doivent veiller à ce que tous les employeurs associés au chantier lui remettent un formulaire d'inscription dûment rempli. Une copie du formulaire d'inscription des employeurs doit être gardée au chantier tant et aussi longtemps que les employeurs y travaillent.»

Nature of Business (check one) <i>Genre d'entreprise (cochez une case)</i>			
<input type="checkbox"/> Individual <i>Individuelle</i>	<input type="checkbox"/> Sole proprietorship <i>À propriétaire unique</i>	<input type="checkbox"/> Partnership <i>En nom collectif</i>	<input type="checkbox"/> Corporation <i>Société</i>
<input type="checkbox"/> Joint Venture <i>Coentreprise</i>			
Name and Full Address of Business / <i>Nom et adresse complète de l'entreprise</i>			
Telephone No.: <i>N° de téléphone</i>		Fax: <i>N° de télécopieur</i>	
Names of Corporations <i>Nom des sociétés</i>		Main Business Address <i>Adresse principale</i>	
1.			
Telephone No.: <i>N° de téléphone</i>		Fax: <i>N° de télécopieur</i>	
2.			
Telephone No.: <i>N° de téléphone</i>		Fax: <i>N° de télécopieur</i>	
Names of Directors & Principal Officers <i>Nom des directeurs et des principaux dirigeants</i>		Title <i>Titre</i>	Date Appointed <i>Date d'entrée en fonction</i>
1.			
2.			
Average No. of Employees on Project <i>Nombre moyen d'employés sur le chantier</i> <input type="checkbox"/> 1 - 5 <input type="checkbox"/> 6 - 19 <input type="checkbox"/> 20 - 49 <input type="checkbox"/> 50 + / 50 et plus			
Master Business Licence No. <i>N° du permis principal d'entreprise (MCC)</i>	Retail Sales Tax No. <i>N° de taxe de vente au détail</i>	WSIB No. <i>N° de compte (CSPAAT)</i>	WSIB Rate No. <i>N° de groupe tarifaire (CSPAAT)</i>
I hereby certify that the above information is correct / <i>J'atteste par la présente que les renseignements donnés plus haut sont exacts.</i>			
Position & Title <i>Poste et titre</i>	Signature <i>Signature</i>		Date <i>Date</i>

Employers are required to submit the completed form to the Constructor for posting/display at the project.  
*Les employeurs doivent remettre le formulaire dûment rempli au constructeur pour qu'il puisse l'afficher sur le chantier.*



**SCHEDULE "F"**

**LIST OF DRAWINGS**

DWG NO	DATE	ISSUE	DESCRIPTION
<b>ARCHITECTURAL DRAWINGS - KOHN PARTNERSHIP ARCHITECTS INC.</b>			
<b>ARCHITECTURAL, INTERIOR DESIGN &amp; STRUCTURAL SPECIFICATIONS DATED AUGUST 2020</b>			
A0-00	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	COVER SHEET
A0-01	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	OBC COMPLIANCE DIAGRAMS & OBC MATRIX
A0-02	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	OBC COMPLIANCE DIAGRAM & SECTION
A0-03	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL, FLOOR & ROOF SCHEDULE
A0-04	Oct 8th, 2020	SITE INSTRUCTION A004	SUITE TYPE DOOR SCHEDULE
A0-05	Dec 15th, 2020	SITE INSTRUCTION A005	DOOR SCHEDULE & INT. ALUM. GLAZED PARTITIONS
A0-06	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	ROOM FINISH SCHEDULE
A0-20	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WINDOW SCHEDULES - LEVEL 1-6
A0-21	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WINDOW SCHEDULES - LEVELS 2-7
A0-22	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WINDOW SCHEDULES - MULTIFLOOR WINDOWS
A0-23	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WINDOW SCHEDULES - MULTIFLOOR WINDOWS
A0-24	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WINDOW SCHEDULES - MULTIFLOOR WINDOWS
A0-25	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WINDOW SCHEDULES - MULTIFLOOR WINDOWS
A0-26	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WINDOW SCHEDULES - MULTIFLOOR WINDOWS
A0-27	Jan 18th, 2021	SITE INSTRUCTION A-006	WINDOW SCHEDULES - MULTIFLOOR & MECH. PH
A0-28	Aug 7th, 2020	SITE INSTRUCTION A001	WINDOW SCHEDULES - MULTIFLOOR WINDOWS
A1-00	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	SITE PLAN & SITE STATISTICS
A2-00	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	FLOOR PLAN - LEVEL P5
A2-01	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	FLOOR PLAN - LEVEL P4
A2-02	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	FLOOR PLAN - LEVEL P3
A2-03	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	FLOOR PLAN - LEVEL P2
A2-04	Dec 15th, 2020	SITE INSTRUCTION A005	FLOOR PLAN - LEVEL P1
A2-05	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 1
A2-05A	Aug 7th, 2020	SITE INSTRUCTION A001	DETAILED FLOOR PLAN - LEVEL 1A
A2-05B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 1B
A2-06	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 2
A2-06A	Aug 7th, 2020	SITE INSTRUCTION A001	DETAILED FLOOR PLAN - LEVEL 2A
A2-06B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 2B
A2-07	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 3/5
A2-07A	Aug 7th, 2020	SITE INSTRUCTION A001	DETAILED FLOOR PLAN - LEVEL 3/5A
A2-07B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 3/5B
A2-08	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 4/6
A2-08A	Aug 7th, 2020	SITE INSTRUCTION A001	DETAILED FLOOR PLAN - LEVEL 4/6A
A2-08B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 4/6B
A2-09	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 7
A2-09A	Aug 7th, 2020	SITE INSTRUCTION A001	DETAILED FLOOR PLAN - LEVEL 7A
A2-09B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 7B
A2-10	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 8
A2-10A	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 8A
A2-10B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 8B
A2-11	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 9
A2-11A	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 9A
A2-11B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 9B
A2-12	Oct 8th, 2020	SITE INSTRUCTION A004	FLOOR PLAN - LEVEL 10
A2-12A	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 10A
A2-12B	Oct 8th, 2020	SITE INSTRUCTION A004	DETAILED FLOOR PLAN - LEVEL 10B
A2-13	Jan 18th, 2021	SITE INSTRUCTION A-006	FLOOR PLAN - MECH PENTHOUSE
A2-14	Oct 8th, 2020	SITE INSTRUCTION A004	ROOF PLAN
A3-00	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	RCP - EXTERIOR SOFFITS
A3-01	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	RCP - EXTERIOR SOFFITS
A4-00	Sep 21st, 2020	SITE INSTRUCTION A003	BUILDING ELEVATIONS - NOR & SOUTH
A4-01	Sep 21st, 2020	SITE INSTRUCTION A003	BUILDING ELEVATION - EAST
A4-02	Sep 21st, 2020	SITE INSTRUCTION A003	BUILDING ELEVATION - WEST
A4-03	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	RAMP ENCLOSURE & LOADING AREA ELEVATIONS
A4-10	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	OVERALL BUILDING SECTIONS
A4-11	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	OVERALL BUILDING SECTIONS

# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1

**VANDYK**  
P R O P E R T I E S

A4-12	Dec 15th, 2020	SITE INSTRUCTION A005	RAMP ENCLOSURE SECTIONS
A5-00	Feb 1st, 2021	SITE INSTRUCTION A-007	WALL SECTIONS - PARKING LEVELS (PART A) WEST
A5-01	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - PARKING LEVELS (PART A) SOUTH
A5-10	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 1 - 5 (PART B) WEST
A5-11	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 1 - 5 (PART B) WEST
A5-12	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 1 - 5 (PART B) WEST
A5-13	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 1 - 5 (PART B) SOUTH
A5-14	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 1 - 5 (PART B) SOUTH
A5-15	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL 1 - 5 (PART B) EAST
A5-16	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL 1 - 5 (PART B) SOUTH
A5-17	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 1 - 5 (PART B) EAST
A5-18	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 1 - 5 (PART B) NOR
A5-20	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL 6 - 10 (PART C) WEST
A5-21	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL 6 - 10 (PART C) WEST
A5-22	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 6 - 10 (PART C) WEST
A5-23	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 6 - 10 (PART C) SOUTH
A5-24	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 6 - 10 (PART C) SOUTH
A5-25	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 6 - 10 (PART C) EAST
A5-26	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL 6 - 10 (PART C) SOUTH
A5-27	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	WALL SECTIONS - LEVEL 6 - 10 (PART C) EAST
A5-28	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL 6 - 10 (PART C) NOR
A5-30	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL MECH PENTHOUSE (PART D)
A5-31	Sep 21st, 2020	SITE INSTRUCTION A003	WALL SECTIONS - LEVEL MECH PENTHOUSE (PART D)
A5-50	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	TYPICAL STAIR DETAILS & HOSE VALVE CONNECTION
A5-51	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	STAIR A FLOOR PLANS
A5-52	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	STAIR B FLOOR PLANS
A5-53	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	STAIR A & B SECTIONS
A5-54	Sep 16th, 2020	SITE INSTRUCTION A-002	STAIR SECTIONS AND DETAILS
A5-55	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	ELEVATOR FLOOR PLANS, SECTIONS & DETAILS
A6-00	Aug 7th, 2020	SITE INSTRUCTION A001	PLAN DETAILS - LEVEL 1
A6-01	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	PLAN DETAILS - LEVEL 1
A6-02	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	PLAN DETAILS - LEVEL 1
A6-03	Aug 7th, 2020	SITE INSTRUCTION A001	PLAN DETAILS - LEVEL 2
A6-04	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	PLAN DETAILS - LEVEL 2
A6-05	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	PLAN DETAILS - LEVEL 3
A6-06	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	PLAN DETAILS - LEVEL 8
A6-07	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	PLAN DETAILS - MPH
A6-20	Sep 16th, 2020	SITE INSTRUCTION A-002	TYPICAL DETAILS
A6-21	Sep 21st, 2020	SITE INSTRUCTION A003	SECTION DETAILS
A6-22	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	SECTION DETAILS
A6-23	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	SECTION DETAILS
A6-24	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	SECTION DETAILS
A6-30	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	SECTION DETAILS
A6-31	Sep 21st, 2020	SITE INSTRUCTION A003	SECTION DETAILS
A9-00	Oct 8th, 2020	SITE INSTRUCTION A004	SLAB EDGE - LEVEL P5
A9-01	Oct 8th, 2020	SITE INSTRUCTION A004	SLAB EDGE - LEVEL P4
A9-02	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	SLAB EDGE - LEVEL P3
A9-03	Jul 15th, 2020	ISSUED FOR CONSOLIDATION	SLAB EDGE - LEVEL P2
A9-04	Feb 1st, 2021	SITE INSTRUCTION A-007	SLAB EDGE - LEVEL P1 & RAMP STRUCTURE
A9-05	Dec 15th, 2020	SITE INSTRUCTION A005	SLAB EDGE - LEVEL 1 (PODIUM)
A9-06	Aug 7th, 2020	SITE INSTRUCTION A001	SLAB EDGE - LEVEL 2 & 3
A9-07	Aug 7th, 2020	SITE INSTRUCTION A001	SLAB EDGE - LEVEL 4 & 5
A9-08	Aug 7th, 2020	SITE INSTRUCTION A001	SLAB EDGE - LEVEL 6 & 7
A9-09	Aug 7th, 2020	SITE INSTRUCTION A001	SLAB EDGE - LEVEL 8 & 9
A9-10	Sep 21st, 2020	SITE INSTRUCTION A003	SLAB EDGE - LEVEL 10 & MPH
A9-11	Sep 21st, 2020	SITE INSTRUCTION A003	SLAB EDGE - ROOF

## ELECTRICAL - SNC-LAVALIN INC.

### ELECTRICAL SPECIFICATIONS DATED AUGUST 20, 2020

E100	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ELECTRICAL LEGEND, GENERAL NOTES & DRAWING LIST
E101	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	BUILDING C-SITE PLAN
E201	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL P5 - LIGHTING, POWER AND SYSTEM LAYOUT
E202	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL P4 - LIGHTING, POWER AND SYSTEM LAYOUT



1944 Fowler Drive  
Mississauga, ON L5K 0A1

E203	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL P3 - LIGHTING, POWER AND SYSTEM LAYOUT
E204	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL P2 - LIGHTING, POWER AND SYSTEM LAYOUT
E205	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL P1 - LIGHTING, POWER AND SYSTEM LAYOUT
E301A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 1A - LIGHTING, POWER AND SYSTEM LAYOUT
E301B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 1B - LIGHTING, POWER AND SYSTEM LAYOUT
E302A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 2A - LIGHTING, POWER AND SYSTEM LAYOUT
E302B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 2B - LIGHTING, POWER AND SYSTEM LAYOUT
E303A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 3A & 5A - LIGHTING, POWER AND SYSTEM LAYOUT
E303B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 3B & 5B - LIGHTING, POWER AND SYSTEM LAYOUT
E304A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 4A & 6A - LIGHTING, POWER AND SYSTEM LAYOUT
E304B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 4B & 6B - LIGHTING, POWER AND SYSTEM LAYOUT
E305A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 7A - LIGHTING, POWER AND SYSTEM LAYOUT
E305B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 7B - LIGHTING, POWER AND SYSTEM LAYOUT
E306A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 8A - LIGHTING, POWER AND SYSTEM LAYOUT
E306B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 8B - LIGHTING, POWER AND SYSTEM LAYOUT
E307A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 9A - LIGHTING, POWER AND SYSTEM LAYOUT
E307B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 9B - LIGHTING, POWER AND SYSTEM LAYOUT
E308A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 10A - LIGHTING, POWER AND SYSTEM LAYOUT
E308B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LEVEL 10B - LIGHTING, POWER AND SYSTEM LAYOUT
E309	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	PENTHOUSE - LIGHTING, POWER AND SYSTEM LAYOUT
E310	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ROOF - LIGHTING, POWER AND SYSTEM LAYOUT
E601	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	SINGLE LINE DIAGRAM
E602	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	POWER RISER DIAGRAM
E603	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	COMMUNICATION RISER DIAGRAM
E604	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	FIRE ALARM RISER DIAGRAM
E605	Nov 9th, 2020	ISSUED FOR SIM E-01	FIRE ALARM ZONING SCHEDULE
E606	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	FIRE ALARM SPRINKLER INTERFACE
E701	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	LUMINAIRE SCHEDULE
E702	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	TYPICAL SUITES LAYOUT AND DETAILS
E703	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ELECTRICAL PANEL SCHEDULES
E801	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ELECTRICAL DETAILS - 1
E802	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ELECTRICAL DETAILS - 2
E803	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ELECTRICAL DETAILS - 3
E804	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ELECTRICAL DETAILS - 4
E805	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	ELECTRICAL DETAILS - 5
E901	Nov 9th, 2020	ISSUED FOR SIM E-01	FIRE ALARM ZONING P5, P4, P3, P2, P1, 1, 2, 3, 4, 5, 6, & 7
E902	Jul 16th, 2020	ISSUED FOR CONSOLIDATION	FIRE ALARM ZONING LEVELS, 8, 9, 10 & MECH PH

MECHANICAL - SNC-LAVALIN INC.			
MECHANICAL SPECIFICATIONS DATED AUGUST 20, 2020			
M100	Oct 22nd, 2020	ISSUED FOR SIM-M01	SITE PLAN, LEGEND AND DRAWING LIST
M200	Jan 27th, 2021	ISSUED FOR SIM-M03	LEVEL P5 - FLOOR PLAN
M201A	Jan 27th, 2021	ISSUED FOR SIM-M03	LEVEL P4 - PART PLAN
M201B	Jan 27th, 2021	ISSUED FOR SIM-M03	LEVEL P4 - PART PLAN
M202A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL P3 - PART PLAN
M202B	Jan 27th, 2021	ISSUED FOR SIM-M03	LEVEL P3 - PART PLAN
M203A	Jan 21st, 2021	ISSUED FOR SIM-M02	LEVEL P2 - PART PLAN
M203B	Jan 27th, 2021	ISSUED FOR SIM-M03	LEVEL P2 - PART PLAN
M204A	Jan 27th, 2021	ISSUED FOR SIM-M03	LEVEL P1 - PART PLAN
M204B	Jan 27th, 2021	ISSUED FOR SIM-M03	LEVEL P1 - PART PLAN
M205A	Aug 12th, 2020	ISSUED FOR ADD-M06	LEVEL 1A - PART PLAN
M205B	Aug 12th, 2020	ISSUED FOR ADD-M06	LEVEL 1B - PART PLAN
M206A	Aug 11th, 2020	ISSUED FOR ADD-M06	LEVEL 2A - PART PLAN
M206B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL 2B - PART PLAN
M207A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL 3A&5A - PART PLAN
M207B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL 3B&5B - PART PLAN
M208A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL 4A&6A - PART PLAN
M208B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL 4B&6B - PART PLAN
M209A	Aug 11th, 2020	ISSUED FOR ADD-M06	LEVEL 7A - PART PLAN
M209B	Aug 11th, 2020	ISSUED FOR ADD-M06	LEVEL 7B - PART PLAN
M210A	Aug 11th, 2020	ISSUED FOR ADD-M06	LEVEL 8A - PART PLAN
M210B	Aug 11th, 2020	ISSUED FOR ADD-M06	LEVEL 8B - PART PLAN
M211A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL 9A - PART PLAN



# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1



M211B	Oct 22nd, 2020	ISSUED FOR SIM-M01	LEVEL 9B - PART PLAN
M212A	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	LEVEL 10A - PART PLAN
M212B	Oct 22nd, 2020	ISSUED FOR SIM-M01	LEVEL 10B - PART PLAN
M213A	Aug 11th, 2020	ISSUED FOR ADD-M06	PENTHOUSE A - PART PLAN
M213B	Aug 11th, 2020	ISSUED FOR ADD-M06	PENTHOUSE B - PART PLAN
M214A	Aug 11th, 2020	ISSUED FOR ADD-M06	ROOF LEVEL - PART PLAN
M214B	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	ROOF LEVEL - PART PLAN
M700	Jan 21st, 2021	ISSUED FOR SIM-M02	FIRE PROTECTION SCHEMATICS
M701	Aug 11th, 2020	ISSUED FOR ADD-M06	SCHEMATICS 1
M702	Jan 21st, 2021	ISSUED FOR SIM-M02	SCHEMATICS 2
M703	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	RISER DIAGRAM HEAT PUMP SYSTEM 1
M704	Aug 11th, 2020	ISSUED FOR ADD-M06	RISER DIAGRAM PLUMBING & DRAINAGE 1
M705	Aug 11th, 2020	ISSUED FOR ADD-M06	RISER DIAGRAM PLUMBING & DRAINAGE 2
M800	Jul 16th, 2020	ISSUED FOR CONSOLIDATION SET	DETAILS 1
M801	Jan 27th, 2021	ISSUED FOR SIM-M03	DETAILS 2
M900	Aug 11th, 2020	ISSUED FOR ADD-M06	RISERS EQUIPMENT SCHEDULES



# VANDYK – Backyard Queensview Limited

1944 Fowler Drive  
Mississauga, ON L5K 0A1



## SCHEDULE "S"

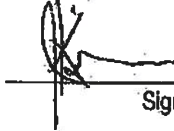
### HEALTH AND SAFETY POLICY ACKNOWLEDGEMENT AND AGREEMENT

#### ACKNOWLEDGMENT

#### Receipt of Health and Safety Policies

I, JAY KRESSLER, hereby acknowledge that I have received and reviewed the Health and Safety Policies of Vandyk-Backyard Queensview Limited and Toddglen Limited and that I have provided a copy of our Health and Safety Policy to Toddglen Limited.

TA APPLIANCE INC.

  
Signature

FEB 24, 2021  
Date

#### CONTRACTOR'S SAFETY AGREEMENT

##### CONTRACTOR:

The term Contractor include all contractors, subcontractors, independent operators and any other person or firm including their workers which the Builder has Contracted with to provide labour, material or services to the Queensview project. All Contractors working on site are expected to meet or exceed all health and safety requirements of the Ministry of Labour, Builder and Construction Manager. All Contractors must provide qualified/certified workers and adequate supervision for the Work performed and must ensure the health and safety of all workers. The Contractor is responsible for ensuring that all its workers and its Subcontractors and their workers are aware of and in compliance with the following requirements:

- The Builder's and the Construction Manager's Health & Safety policies and procedures.
- The Occupational Health and Safety Act and any other applicable governing legislation, regulations and industry standards.
- Ministry of Labour (MOL) and Workplace Safety and Insurance Board (WSIB) reporting requirements.
- Training requirements required to conduct all work in a safe and timely manner as well as hazards associated with all work.

The Contractor agrees that any violation of the above requirements will result in disciplinary action by the Builder and the Construction Manager against the Contractor or the worker responsible. The Contractor agrees that if it does not comply with the above requirements it will indemnify the Builder and Construction Manager for any losses suffered by them as a result of a safety violation or injury or charges that are caused by the Contractor or anyone for whom they are responsible.

The Contractor agrees that prior to any work beginning, they will carefully review the Builder's and the Construction Manager's Health & Safety Policies and they will instruct their workers about the specific health and safety requirements that will be in force at the Queensview project site. Every worker must receive a safety orientation prior to performing any work on site.

##### Description of Project: Backyard Condos-Queensview (Building C)

WSIB Firm# 724244

WSIB Rate Group: \_\_\_\_\_

Average Number of Workers: 8

Approximate Duration of Work: \_\_\_\_\_

Name: JAY KRESSLER  
(Please print)

Contractor's Signature:  \_\_\_\_\_ Date: FEB 24, 2021

**THIS AGREEMENT WILL BE KEPT ON FILE AND IS VALID FOR THE DURATION OF WORK.**

# Appendix D

# Philip Horgan Law Office

Philip H. Horgan, B.A., J.D.  
e-mail: phorgan@carltonlaw.ca

File No. CLAS 1613

Mary E. Zettel, B.Sc., J.D.  
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March 3, 2024

*Via email only: djmiller@tgf.ca, pfesharaki@tgf.ca, rchakrabarti@tgf.ca, rmacdougall@foglers.com*

D.J. Miller/Puya Fesharaki/Rudrakshi Chakrabarti  
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W. Ross MacDougall  
Fogler, Rubinoff LLP  
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Dear Counsel,

**Re: Classic Tile Contractors Limited (“Classic Tile”) – Claim for Lien  
Receivership of Vandyk-Backyard Queensview Limited and Vandyk-Backyard  
Humberside Limited - Court File No. CV-24-00713783-00CL  
Motion Returnable March 6, 2024**

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I am in receipt of the Receiver’s motion record dated February 27, 2024.

My client opposes any conclusive determination of priorities at this time, without a full record and full argument. As pleaded in Classic Tile’s Statement of Claim issued January 16, 2024, there is a potential claim for complete priority (not limited to the extent of any deficiency in holdback) of my client’s lien claim over the Peoples Trust Company mortgage.

I understand that 100% of the mortgage proceeds were diverted to projects belonging to other Vandyk companies (now also insolvent). Thus, there was arguably no advance made to Vandyk-Backyard Queensview, such that the mortgagee is not entitled to any priority under s. 78 of the *Construction Act*. The lender was presumably informed of this proposed diversion of funds.

The Peoples Trust Company mortgage may also be a fraudulent conveyance, intended to defeat creditors, and on the eve of Vandyk-Backyard Queensview's insolvency, such that it may be void as against Classic Tile under the *Fraudulent Conveyances Act* ("FCA") and/or *Assignments and Preferences Act* ("APA"). Vandyk-Backyard Queensview obtained the mortgage through false statements, e.g. the "certificate" signed by Richard Ma stating there had been no construction work for 150 days prior to August 10, 2023 and that there were no construction contracts in force (in fact, work continued throughout the fall of 2023). Peoples Trust and Firm Capital may have been wilfully blind to the openly ongoing construction at the time of the mortgage. The details of their due diligence have not been canvassed. No cross-examinations or examinations for discovery have taken place.

I refer you to the *XDG* case,<sup>1</sup> in which an owner used a mortgage to move equity to a closely related company in order to evade lien claims, stripping the equity from the first company and rendering it insolvent. This mortgage was found to rank behind the lien claims based on s. 78 of the *Construction Act*, the *FCA*, and the *APA*. Those facts are very similar to the instant case.

The Loopstra Nixon opinion provided to the Receiver has not been produced. It is unknown on what factual record it was based, or whether that opinion considered the legal issues raised in *XDG* and under the *FCA* and *APA*. Please produce that opinion, as referred to in the motion record.

Classic Tile will not oppose a distribution of net proceeds from the sale of Unit 302 to the mortgagee, subject to the 15% holdback retained by the Receiver. The distribution of sale proceeds of the remaining Unsold Units should generate sufficient funds to pay all possible lien claims, and this interim distribution from the sale of Unit 302 will reduce the accrual of interest. However, the priority issue cannot be conclusively determined without a full record.

Any such distribution from the net proceeds of Unit 302 is therefore without prejudice to a future argument on the priority issue with respect to the proceeds of future sales of Unsold Units.

I enclose revised versions of the draft Ancillary Order and Lien Claims Process Order which my client can accept. Failing a resolution along these lines, my client will oppose the Receiver's motion for a final ruling on priorities, pending a future hearing on a full record.

I look forward to hearing from you shortly.

Yours truly,



**PHILIP H. HORGAN**

PHH/rf

Cc: Client; Service List

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<sup>1</sup> [XDG Ltd. v 1099606 Ontario Ltd., 2002 CanLII 22043](#), aff'd [XDG Ltd v 1099606 Ontario Ltd., 2004 CanLII 15997 \(ON SCDC\)](#) ["XDG"].

# Appendix E





Fogler, Rubinoff LLP  
Lawyers

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Lawyer: W. Ross MacDougall  
Direct Dial: 416.864.7604  
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Direct Dial: 416.864.9700 x179  
E-mail: bkaddoura@foglers.com

Our File No. 241128

March 4, 2024

**VIA EMAIL**

Philip H. Horgan  
Philip Horgan Law Office  
Suite 301  
120 Carlton Street  
Toronto, ON M5A 4K2

Dear Mr. Horgan:

**Re: Classic Tile Contractors Limited (“Classic Tile”) – Claim for Lien  
Receivership of Vandyk-Backyard Queensview Limited and Vandyk-Backyard  
Humburside Limited - Court File No. CV-24-00713783-00CL  
Motion Returnable March 6, 2024**

---

We acknowledge receipt of your letter dated March 3, 2024.

We cannot see how Classic Tile's claim for complete priority over the Applicant's mortgage (the "**First Mortgage**") has any chance of success.

The *XDG* case (which you rely on in support of your client's claim) concerned the validity of a collateral mortgage given by a guarantor to secure the pre-existing debts of its affiliate. The trial judge found that the guarantee and collateral mortgage provided no benefit to the guarantor and that it contravened the *Business Corporations Act*, the *Fraudulent Conveyances Act* and the *Assignments and Preferences Act*. The judge also found that the lien claims had priority under section 78 of the *Construction Act* (the "CA") because no amounts were actually advanced under the mortgage.

The above facts bear no similarity to the facts in this proceeding. The mortgage proceeds were advanced to the owner/borrower, Vandyk-Backyard Queensview Limited. The proceeds of the First

Mortgage, as represented by the borrower, was to refinance existing Kingsett Capital debt and provide an equity take-out.<sup>1</sup>

Further, your client's position that it should be entitled to full priority over the First Mortgage based on an alleged lack of due diligence by the Applicants runs contrary to the comprehensive scheme of rights and remedies established by the CA. The CA does not imply the existence of further rights or obligations which are not specifically provided for in the legislation. See *Tremblar Building Supplies Ltd. v. 1839563 Ontario Limited*, 2020 ONSC 6302 (Div. Ct.).

The CA does not impose a due diligence requirement on a lender, including any requirement to satisfy itself that construction trades have been paid prior to making an advance. If a mortgage lender advances in the face of a lien or a written notice of lien (which did not occur here, based on the uncontroverted evidence before the Court) it may lose full priority to the lien claimants. Otherwise, the mortgagee ranks ahead of the construction liens, save for the deficiency in the holdbacks.

Any proposed distribution of net proceeds to the Applicants in connection with the sale of unit 302 (or any of the Unsold Units) that is purportedly made subject to a potential future claim by the Lien Claimants would not constitute an indefeasible payment to the Applicants or result in a reduction in the mortgage debt. The Applicants will not accept payment of funds on that basis (nor would any lender), as same would need to be segregated in any event and not applied in permanent reduction of the indebtedness. In such case, if the Court was not satisfied that the mechanism proposed by the Receiver protects all parties' interests, then interest will continue to accrue on the entire outstanding principal (currently \$95,000 per month). In the Receiver's assessment, this will detrimentally impact those valid lien claims who currently stand to recover more than the deficiency in the holdbacks, and other creditors, by eroding the residual equity which might otherwise be available after payment of the First Mortgage.

Yours truly,

**FOGLER, RUBINOFF LLP**



W. Ross MacDougall\*  
Partner

\*Services provided through a professional corporation

---

<sup>1</sup> See Commitment Letter at Exhibit "F" to the Affidavit of Michael Lombard sworn January 30, 2023, Application Record, Tab 2.

# Appendix F

Monday, February 12, 2024

**DELIVERED VIA EMAIL**

**Thornton Grout Finnigan LLP**  
3200-100 Wellington Street West  
TD West Tower, Toronto Dominion Centre  
Toronto, ON  
M5K 1K7

Attention: Mssrs. D. J. Miller, Puya Fesharaki, Rudrakshi Chakrabarti

Dear Sirs:

**RE: Plycon Forming Ltd. v. Vandyk-Backyard Queensview Limited et al.**  
**Breach of Trust Action CV-23-00710524-0000**

**AND: Receivership of Unsold Condominium Units – 25 Neighbourhood Lane, Toronto**

Be advised that I represent Plycon Forming Ltd. (“Plycon”) in connection with the above-noted matter.

Plycon was at all material times a contractor that was hired by Vandyk-Backyard Queensview Limited (“Vandyk Queensview”) to complete the formwork, placing of reinforcing steel, and placing and finishing of contract at the above-noted condominium project located at 25 Neighbourhood Lane, Toronto (the “Project”).

Plycon completed its work in a good and workmanlike manner, rendered invoices for the work completed. There is an outstanding account due and owing to Plycon in the amount of \$1,263,804.71 inclusive of HST.

On November 29, 2024, Plycon issued a Statement of Claim bearing Toronto Superior Court of Justice Court File No. CV-23-00710524-0000 as against Vandyk Queensview, and also John Vandyk and John Doe whose identity is unknown for, *inter alia*, breach of trust pursuant to the *Construction Act* and related relief, see copy attached (the “Plycon Trust Action”). We recently filed a motion for substituted service over the counter and are waiting for the court order.

Neither my client nor my offices were served with the Notice of Application returnable February 6, 2024 nor with the Receivership Order dated February 6, 2024, appointing RSM Canada Limited (“RSM”) as receiver over the unsold units (“Receiverhip Order”). We recently learned of the Receivership Order upon conducting a random search of title on the Project.

Kindly provide us with a copy of the Notice of Application and also add our firm to the notice list for this receivership proceeding. Will documents relating to this receivership be posted online somewhere?

Be advised that Plycon takes the position that any proceeds from the sale of the unsold condominium units at the Project (the "Unsold Units") constitute a vendor's trust pursuant to Section 9 of the *Construction Act*. The *Construction Act* trust claims survive bankruptcy proceedings: *Urbancorp. Cumberland 2 GP Inc. (Re) 2020 ONCA 197*. Please also refer to section 85 of the *Construction Act* regarding priorities on insolvency.

At this stage we request the following clarifications from the Receiver:

1. We could not find any clauses in the Receivership Order dealing with trust claims. Does the Receiver have the authority to deal with trust claims, including the subject matter of the Plycon Trust Action?
2. Is Plycon's Trust Action stayed by virtue of the Receivership Order which appears to apply to the proceeds from the sale of the units (and hence trust funds)?
3. Does the Receiver have the power and intention to investigate disposition of any assets by Vandyk Queensview (similar to that experienced on other projects that are also in receivership)?

If you have any questions or wish to discuss this matter in greater detail please do not hesitate to contact me anytime.

Yours truly,

**SOCOL LAW**

Per:

*Fabio M. Soccol*

Fabio M. Soccol

FMS:ab

Encl.

cc. Plycon

# Appendix G





Fogler, Rubinoff LLP  
Lawyers

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Legal Assistant: Brandy Kaddoura  
Direct Dial: 416.864.9700 x179  
E-mail: bkaddoura@foglers.com

Our File No. 241128

March 1, 2024

**VIA EMAIL**

Fabio Soccol  
Soccol Law  
Barristers & Solicitors  
7823 Kipling Avenue  
Vaughan, ON L4L 1Z4

Dear Mr. Soccol:

**Re: Receivership of Unsold Condominium Units, 25 Neighbourhood Lane, Toronto**

---

We are co-counsel to the Receiver, TDB Restructuring Limited (formerly RSM Canada Limited) in this matter.

Our firm is engaged to advise the Receiver in connection with the real estate and construction claims aspects of the Receivership. Your letter dated February 12<sup>th</sup>, sent on behalf of your client, Plycon Forming Ltd., has been forwarded by TGF (insolvency counsel to the Receiver) to the undersigned for response.

The Receiver was not aware of the existence of your client's claim prior to receipt of your letter. I am advised by TGF that your firm has now been added to the Service List.

The Notice of Application can be found at <https://tdbadvisory.ca/insolvency-case/vandyk-backyard-queensview-limited-vandyk-backyard-humberside-limited/>. TGF will also invite you to Caselines for this matter, where you can access all materials filed in this proceeding from time to time, including the complete Application Record.

Please note that as at January 23, 2024, the indebtedness of Vandyk-Backyard Queensview Limited (the "**Borrower**") under the first mortgage granted by the Applicants in the Receivership application (the "**Mortgage**") was \$12,000,201.89, excluding legal fees. There are also 14 registered liens against the Unsold Units in the aggregate amount of \$8,313,886.16.

The Receiver has not yet undertaken an analysis of the liens, however, if the liens are found to be valid, they could rank in priority to the Mortgage to the extent of the deficiency of the holdbacks, which has not yet been determined but is anticipated to be a maximum of \$1,970,017.11, based on the stated contract values of those lien claimants who had a direct contract with the Borrower.

With respect to your client's position that the proceeds from the sale of unsold units constitute a vendor's trust pursuant to Section 9 of the *Construction Act*, we note that the vendor's trust arising under Section 9 of the *Construction Act* relates only to the net proceeds of any sale of the property in question, after the deduction of reasonable expenses arising from the sale and any amount paid to discharge mortgage indebtedness.

We also note that Section 85 of the *Construction Act* relates to the trust claims of beneficiaries to the Trust created by Section 8 of the *Construction Act* and also makes clear that, upon insolvency by a payer, those beneficiaries who have proved liens shall rank in priority to those beneficiaries whose liens have not been proved.

In response to the specific questions raised in your letter, we advise as follows:

1. Although the Receivership Order does not specifically mention trust claims, the Receivership Order is sufficiently broad to permit the Receiver to deal with trust claims.
2. Your client's claim is also stayed by virtue of paragraph 9 of the Receivership Order, as the claim is "in respect of the Property". However, the Receiver does not agree that any "proceeds from the sale of the units" constitute trust funds. As set out above, to the extent your client is a beneficiary to the vendor's trust under section 9 of the *Construction Act*, that only applies to the net proceeds of any sale (as per the calculation set out in subsection 9(1)), which includes payment to discharge mortgage indebtedness. Further, your client will rank behind those trust beneficiaries who have proven lien claims.
3. While the Receiver has the power to investigate the disposition of any assets of the Borrower, it has no present intention to do so. The focus of the Receiver's attention at the present time will be the sale of the Unsold Units and the determination of the priority of the lien claimants, if any, to the Mortgage.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

**FOGLER, RUBINOFF LLP**

A handwritten signature in black ink, appearing to be 'W. Ross MacDougall', written in a cursive style.

W. Ross MacDougall\*  
Partner

\*Services provided through a professional corporation

WRM/bk

# Appendix H

## Dannallyn Salita

---

**From:** Puya Fesharaki  
**Sent:** Monday, March 4, 2024 7:57 PM  
**To:** Dannallyn Salita  
**Subject:** FW: Receivership Application over Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited - Court File No. CV-24-00713783-00CL - Motion Record of the Receiver  
**Attachments:** Draft Order (Ancillary Relief) and Draft Order (Lien Claims Procedure) - SOCCOL REVISED March 4 2024.docx

---

**From:** Fabio Soccol <fabio@soccollaw.com>  
**Sent:** Monday, March 4, 2024 6:02 PM  
**To:** 'Raphael Fernandes' <rfernandes@carltonlaw.ca>; Rushi Chakrabarti <rchakrabarti@tgf.ca>; Puya Fesharaki <PFesharaki@tgf.ca>; D. J. Miller <DJMiller@tgf.ca>; traub@gsnh.com; aslavens@torys.com; rmacdougall@foglers.com; jfried@foglers.com; bmilburn@SRlawpractice.com; jeff.larry@paliareroland.com; rdelvecchio@millertthomson.com; mfazzari@millertthomson.com; dpresta@bianchipresta.com; rjk@kennaley.ca; phorgan@carltonlaw.ca; calexiou@dakllp.com; rmoubarak@sutherlaw.com; ebisceglia@lawtoronto.com; fsouza@lawtoronto.com; awainstock@dakllp.com; rocco@rarlitigation.com; psarkis@rarlitigation.com; normanronski@harrisandharris.com; jkasozzi@cambridgellp.com; skebeich@cambridgellp.com; pguaragna@millertthomson.com; insolvency.unit@ontario.ca; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; Nyna.Bishop@wellsfargo.com; dvernon@kingsettcapital.com; drickards@pssmlaw.com; jude.vermette@cwbank.com; kcl\_g.finance@kubota.com; mark.adams@mcap.com; law@mcap.com; dmichaud@robapp.com; malik.ahmed@rbc.com; info@dukamanagement.com; ozier@gsnh.com; cd@giffenlawyers.com; tjn@giffenlawyers.com; jmaclellan@blg.com; jdutrizac@blg.com; harvey@chaitons.com; laurac@chaitons.com; jberger@tdbadvisory.ca; btannenbaum@tdbadvisory.ca; nmaragna@bianchipresta.com; SCoates@kingsettcapital.com; DPollack@Kingsettcapital.com; Daniel.Rosenbluth@paliareroland.com; dan.rosenbluth@paliareroland.com; pholdsworth@robapp.com; cmacleod@cambridgellp.com; jsimpson@torkinmanes.com; tmarkovic@torkinmanes.com; gene.l@dukamanagement.com; janet@jklawfirm.ca  
**Cc:** Natalie Longmore <nlongmore@tgf.ca>; Roxana Manea <RManea@tgf.ca>  
**Subject:** RE: Receivership Application over Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited - Court File No. CV-24-00713783-00CL - Motion Record of the Receiver [IMAN-CLIENT.FID184451]

Dear Counsel,

I act for Plycon Forming Ltd. ("Plycon") in connection with the above-noted Project. Please find attached a Notice of Appearance.

My client Plycon does not have a construction lien. Plycon asserts a trust claim pursuant to a vendor's trust under Section 9 of the *Construction Act*. We propose that both the draft Ancillary Order and also the Lien Claims Procedure Order include a process moving forward to deal with any Trust Claims under the *Construction Act*.

The letter from Phillip Horgan dated March 3, 2024 raises various issues regarding the validity and/or enforceability of the Applicant Peoples Trust. In the case [XDG Ltd. v 1099606 Ontario Ltd., 2002 CanLII 22043](#), aff'd [XDG Ltd v 1099606 Ontario Ltd., 2004 CanLII15997 \(ON SCDC\)](#) ["XDG"] the Court found the mortgage to be invalid on numerous grounds, including but not limited to, pursuant to Section 2 of the *Fraudulent Conveyances Act*, which is not limited to construction lien proceedings. Accordingly, Plycon would like the proposed order to stipulate that it is without

prejudice to any Trust Claimants' rights to seek a declaration that the Peoples Trust mortgage is invalid and/or unenforceable.

See attached my proposed revisions highlighted in yellow, to the draft orders (using Mr. Horgan's revised drafts).

We have no issue with the distribution of the net sale proceeds as being requested, but as stated above, would simply like to see a process to deal with Trust Claims, and a reservation of Trust Claimants' rights until such time as these issues can be dealt with properly and with a full record before the Court.

Thank you.

Regards,

Fabio M. Socol  
[fabio@soccollaw.com](mailto:fabio@soccollaw.com)

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# Appendix I

## Dannallyn Salita

---

**From:** Puya Fesharaki  
**Sent:** Monday, March 4, 2024 10:22 PM  
**To:** Dannallyn Salita  
**Subject:** FW: Receivership Application over Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited - Court File No. CV-24-00713783-00CL - Motion Record of the Receiver

---

**From:** Dominique Michaud <dmichaud@robapp.com>

**Sent:** Monday, March 4, 2024 9:37 PM

**To:** MacDougall, W. Ross <rmacdougall@foglers.com>; Raphael Fernandes <rfernandes@carltonlaw.ca>; Rushi Chakrabarti <rchakrabarti@tgf.ca>; Puya Fesharaki <PFesharaki@tgf.ca>; D. J. Miller <DJMiller@tgf.ca>; traub@gsnh.com; aslavens@torys.com; Fried, Joseph <jfried@foglers.com>; bmilburn@SRLawpractice.com; jeff.larry@paliareroland.com; rdelvecchio@millertomson.com; mfazzari@millertomson.com; dpresta@bianchipresta.com; rjk@kennaley.ca; phorgan@carltonlaw.ca; calexiou@dakllp.com; rmoubarak@sutherlaw.com; ebisceglia@lawtoronto.com; fsouza@lawtoronto.com; awainstock@dakllp.com; rocco@rarlitigation.com; psarkis@rarlitigation.com; normanronski@harrisandharris.com; jkasozi@cambridgellp.com; skebeich@cambridgellp.com; pguaragna@millertomson.com; insolvency.unit@ontario.ca; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca; Nyna.Bishop@wellsfargo.com; dvernon@kingsettcapital.com; drickards@pssmlaw.com; jude.vermette@cwbank.com; kcl\_g.finance@kubota.com; mark.adams@mcap.com; law@mcap.com; malik.ahmed@rbc.com; info@dukamanagement.com; ozier@gsnh.com; cd@giffenlawyers.com; tjn@giffenlawyers.com; jmaclellan@blg.com; jdutrizac@blg.com; harvey@chaitons.com; laurac@chaitons.com; jberger@tdbadvisory.ca; btannenbaum@tdbadvisory.ca; nmaragna@bianchipresta.com; SCoates@kingsettcapital.com; DPollack@Kingsettcapital.com; Daniel.Rosenbluth@paliareroland.com; dan.rosenbluth@paliareroland.com; Philip Holdsworth <pholdsworth@robapp.com>; cmacleod@cambridgellp.com; jsimpson@torkinmanes.com; tmarkovic@torkinmanes.com; fabio@soccollaw.com; gene.l@dukamanagement.com; janet@jklawfirm.ca; phorgan@carltonlaw.ca

**Cc:** Natalie Longmore <nlongmore@tgf.ca>; Roxana Manea <RManea@tgf.ca>; Philip Holdsworth <pholdsworth@robapp.com>

**Subject:** RE: Receivership Application over Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited - Court File No. CV-24-00713783-00CL - Motion Record of the Receiver [IMAN-CLIENT.FID184451]

All:

We have been retained by Chicago Title Insurance Company to act as counsel for Peoples Trust Company and Firm Capital Corporation (the "First Mortgagee") as it relates to the construction lien priority issues.

We have reviewed Mr. MacDougall's letter from earlier today and can advise that we support the position taken by the Receiver. It is very clear that the facts of the loan made by the First Mortgagee to the Debtor are very different than the facts in the XDG case. A review of the evidence filed in Court to date demonstrates that the mortgage proceeds were in fact advanced to the Debtor to, among other things, repay the Kingsett Mortgage. This loan was a *bona fide* arm's length transaction and in no way can be properly characterized as fraudulent conveyance intended to defeat or hinder the Debtor's creditors.

If you have any questions about our position please feel to reach out to me at the coordinates set out below.

Dom



**Dominique Michaud**

Partner

T. 416.360.3795

E. [dmichaud@robapp.com](mailto:dmichaud@robapp.com)

**ROBINS APPLEBY**

BARRISTERS + SOLICITORS

---

**From:** MacDougall, W. Ross <[rmacdougall@foglers.com](mailto:rmacdougall@foglers.com)>

**Sent:** Monday, March 4, 2024 4:39 PM

**To:** Raphael Fernandes <[rfernandes@carltonlaw.ca](mailto:rfernandes@carltonlaw.ca)>; Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>; Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; [traub@gsnh.com](mailto:traub@gsnh.com); [aslavens@torys.com](mailto:aslavens@torys.com); Fried, Joseph <[jfried@foglers.com](mailto:jfried@foglers.com)>; [bmilburn@SRLawpractice.com](mailto:bmilburn@SRLawpractice.com); [jeff.larry@paliareroland.com](mailto:jeff.larry@paliareroland.com); [rdelvecchio@millerthomson.com](mailto:rdelvecchio@millerthomson.com); [mfazzari@millerthomson.com](mailto:mfazzari@millerthomson.com); [dpresta@bianchipresta.com](mailto:dpresta@bianchipresta.com); [rjk@kennaley.ca](mailto:rjk@kennaley.ca); [phorgan@carltonlaw.ca](mailto:phorgan@carltonlaw.ca); [calexiou@dakllp.com](mailto:calexiou@dakllp.com); [rmoubarak@sutherlaw.com](mailto:rmoubarak@sutherlaw.com); [ebisceglia@lawtoronto.com](mailto:ebisceglia@lawtoronto.com); [fsouza@lawtoronto.com](mailto:fsouza@lawtoronto.com); [awainstock@dakllp.com](mailto:awainstock@dakllp.com); [rocco@rarlitigation.com](mailto:rocco@rarlitigation.com); [psarkis@rarlitigation.com](mailto:psarkis@rarlitigation.com); [normanronski@harrisandharris.com](mailto:normanronski@harrisandharris.com); [jkasoz@cambridgellp.com](mailto:jkasoz@cambridgellp.com); [skebeich@cambridgellp.com](mailto:skebeich@cambridgellp.com); [pguaragna@millerthomson.com](mailto:pguaragna@millerthomson.com); [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca); [AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca](mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca); [Nyna.Bishop@wellsfargo.com](mailto:Nyna.Bishop@wellsfargo.com); [dvernon@kingsettcapital.com](mailto:dvernon@kingsettcapital.com); [drickards@pssmlaw.com](mailto:drickards@pssmlaw.com); [jude.vermette@cwbank.com](mailto:jude.vermette@cwbank.com); [kcl\\_g.finance@kubota.com](mailto:kcl_g.finance@kubota.com); [mark.adams@mcap.com](mailto:mark.adams@mcap.com); [law@mcap.com](mailto:law@mcap.com); Dominique Michaud <[dmichaud@robapp.com](mailto:dmichaud@robapp.com)>; [malik.ahmed@rbc.com](mailto:malik.ahmed@rbc.com); [info@dukamanagement.com](mailto:info@dukamanagement.com); [ozier@gsnh.com](mailto:ozier@gsnh.com); [cd@giffenlawyers.com](mailto:cd@giffenlawyers.com); [tjn@giffenlawyers.com](mailto:tjn@giffenlawyers.com); [jmaclellan@blg.com](mailto:jmaclellan@blg.com); [jdutrizac@blg.com](mailto:jdutrizac@blg.com); [harvey@chaitons.com](mailto:harvey@chaitons.com); [laurac@chaitons.com](mailto:laurac@chaitons.com); [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca); [btannenbaum@tdbadvisory.ca](mailto:btannenbaum@tdbadvisory.ca); [nmaragna@bianchipresta.com](mailto:nmaragna@bianchipresta.com); [SCoates@kingsettcapital.com](mailto:SCoates@kingsettcapital.com); [DPollack@Kingsettcapital.com](mailto:DPollack@Kingsettcapital.com); [Daniel.Rosenbluth@paliareroland.com](mailto:Daniel.Rosenbluth@paliareroland.com); [dan.rosenbluth@paliareroland.com](mailto:dan.rosenbluth@paliareroland.com); Philip Holdsworth <[pholdsworth@robapp.com](mailto:pholdsworth@robapp.com)>; [cmacleod@cambridgellp.com](mailto:cmacleod@cambridgellp.com); [jsimpson@torkinmanes.com](mailto:jsimpson@torkinmanes.com); [tmarkovic@torkinmanes.com](mailto:tmarkovic@torkinmanes.com); [fabio@soccollaw.com](mailto:fabio@soccollaw.com); [gene.l@dukamanagement.com](mailto:gene.l@dukamanagement.com); [janet@jklawfirm.ca](mailto:janet@jklawfirm.ca); [phorgan@carltonlaw.ca](mailto:phorgan@carltonlaw.ca)

**Cc:** Natalie Longmore <[nlongmore@tgf.ca](mailto:nlongmore@tgf.ca)>; Roxana Manea <[RManea@tgf.ca](mailto:RManea@tgf.ca)>

**Subject:** RE: Receivership Application over Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited - Court File No. CV-24-00713783-00CL - Motion Record of the Receiver [IMAN-CLIENT.FID184451]

**CAUTION:** External e-mail.

Dear counsel,

I attach my response to Mr. Horgan's letter dated March 3, 2024.

Best regards,

Ross

**fogler  
rubinoff**

**W. Ross MacDougall\***

Partner, Litigation and Dispute Resolution Department

Fogler, Rubinoff LLP

Lawyers

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

\*Services provided through a professional corporation

---

**From:** Raphael Fernandes <[rfernandes@carltonlaw.ca](mailto:rfernandes@carltonlaw.ca)>

**Sent:** Sunday, March 3, 2024 6:01 PM

**To:** Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>; Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; [traub@gsnh.com](mailto:traub@gsnh.com); [aslavens@torys.com](mailto:aslavens@torys.com); MacDougall, W. Ross <[rmacdougall@foglers.com](mailto:rmacdougall@foglers.com)>; Fried, Joseph <[jfried@foglers.com](mailto:jfried@foglers.com)>; [bmilburn@SRLawpractice.com](mailto:bmilburn@SRLawpractice.com); [jeff.larry@paliareroland.com](mailto:jeff.larry@paliareroland.com); [rdelvecchio@millerthomson.com](mailto:rdelvecchio@millerthomson.com); [mfazzari@millerthomson.com](mailto:mfazzari@millerthomson.com); [dpresta@bianchipresta.com](mailto:dpresta@bianchipresta.com); [rjk@kennaley.ca](mailto:rjk@kennaley.ca); [phorgan@carltonlaw.ca](mailto:phorgan@carltonlaw.ca); [calexiou@dakllp.com](mailto:calexiou@dakllp.com); [rmoubarak@sutherlaw.com](mailto:rmoubarak@sutherlaw.com); [ebisceglia@lawtoronto.com](mailto:ebisceglia@lawtoronto.com); [fsouza@lawtoronto.com](mailto:fsouza@lawtoronto.com); [awainstock@dakllp.com](mailto:awainstock@dakllp.com); [rocco@rarlitigation.com](mailto:rocco@rarlitigation.com); [psarkis@rarlitigation.com](mailto:psarkis@rarlitigation.com); [normanronski@harrisandharris.com](mailto:normanronski@harrisandharris.com); [jkasoz@cambridgellp.com](mailto:jkasoz@cambridgellp.com); [skebeich@cambridgellp.com](mailto:skebeich@cambridgellp.com); [pguaragna@millerthomson.com](mailto:pguaragna@millerthomson.com); [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca); [AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca](mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca); [Nyna.Bishop@wellsfargo.com](mailto:Nyna.Bishop@wellsfargo.com); [dvernon@kingsettcapital.com](mailto:dvernon@kingsettcapital.com); [drickards@pssmlaw.com](mailto:drickards@pssmlaw.com); [jude.vermette@cwbank.com](mailto:jude.vermette@cwbank.com); [kcl\\_g.finance@kubota.com](mailto:kcl_g.finance@kubota.com); [mark.adams@mcap.com](mailto:mark.adams@mcap.com); [law@mcap.com](mailto:law@mcap.com); [dmichaud@robapp.com](mailto:dmichaud@robapp.com); [malik.ahmed@rbc.com](mailto:malik.ahmed@rbc.com); [info@dukamanagement.com](mailto:info@dukamanagement.com); [ozier@gsnh.com](mailto:ozier@gsnh.com); [cd@giffenlawyers.com](mailto:cd@giffenlawyers.com); [tjn@giffenlawyers.com](mailto:tjn@giffenlawyers.com); [jmaclellan@blg.com](mailto:jmaclellan@blg.com); [jdutrizac@blg.com](mailto:jdutrizac@blg.com); [harvey@chaitons.com](mailto:harvey@chaitons.com); [laurac@chaitons.com](mailto:laurac@chaitons.com); [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca); [btannenbaum@tdbadvisory.ca](mailto:btannenbaum@tdbadvisory.ca); [nmaragna@bianchipresta.com](mailto:nmaragna@bianchipresta.com); [SCoates@kingsettcapital.com](mailto:SCoates@kingsettcapital.com); [DPollack@Kingsettcapital.com](mailto:DPollack@Kingsettcapital.com); [Daniel.Rosenbluth@paliareroland.com](mailto:Daniel.Rosenbluth@paliareroland.com); [dan.rosenbluth@paliareroland.com](mailto:dan.rosenbluth@paliareroland.com); [pholdsworth@robapp.com](mailto:pholdsworth@robapp.com); [cmacleod@cambridgellp.com](mailto:cmacleod@cambridgellp.com); [jsimpson@torkinmanes.com](mailto:jsimpson@torkinmanes.com); [tmarkovic@torkinmanes.com](mailto:tmarkovic@torkinmanes.com); [fabio@soccollaw.com](mailto:fabio@soccollaw.com); [gene.l@dukamanagement.com](mailto:gene.l@dukamanagement.com); [janet@jklawfirm.ca](mailto:janet@jklawfirm.ca)

**Cc:** Natalie Longmore <[nlongmore@tgf.ca](mailto:nlongmore@tgf.ca)>; Roxana Manea <[RManea@tgf.ca](mailto:RManea@tgf.ca)>

**Subject:** Re: Receivership Application over Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited - Court File No. CV-24-00713783-00CL - Motion Record of the Receiver [IMAN-CLIENT.FID184451]

Some people who received this message don't often get email from [rfernandes@carltonlaw.ca](mailto:rfernandes@carltonlaw.ca). [Learn why this is important](#)

Dear Counsel,

Please find enclosed a letter from Philip Horgan of today's date, relating the motion scheduled for March 6, 2024.

Sincerely,

--

Raphael Fernandes

Associate Lawyer  
Philip H. Horgan Law Office  
301-120 Carlton Street  
Toronto, ON M5A 4K2

Tel: (416) 777-9994

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# Appendix J

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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43,  
as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act,  
R.S.C. 1985, c. B-3, as amended*

THE HONOURABLE ) WEDNESDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF MARCH, 2024

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

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

- and -

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

**Order  
(Ancillary Relief)**

**THIS MOTION**, made by RSM Canada Limited (now known as TDB Restructuring Limited) in its capacity as Court-appointed receiver (the “**Receiver**”) of the unsold condominium units, parking units, and storage lockers legally described in the Order appointing the Receiver granted by this Court on February 6, 2024 (the “**Appointment Order**”), including all proceeds thereof (the “**Property**”) of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”) for an order among other things: (i) approving the First Report of the Receiver dated February 27, 2024 (the “**First Report**”), [the Supplementary Report of the Receiver dated March 4, 2024 \(the “Supplementary Report”\)](#) and the Receiver’s activities set out therein; (ii) ratifying the Receiver’s termination of the agreement of purchase and sale (the “**Unit 211 Agreement**”) between Vandyk-Backyard Queensview Limited and



Oluwaseun Olowolafe dated November 28, 2018, as amended; (iii) establishing the maximum priority that the lien claims, if determined to be valid, may have as against the first ranking charge/mortgage against the Property; and (iv) approving the distribution of the aggregate net proceeds (the "**Net Proceeds**") set out herein from the sale of Unit 302, subject to the Receiver first retaining and holding 15% of the Net Proceeds in trust for any lien claims that may subsequently be determined to be valid and in priority to the first mortgage registered on title to the Property [and \\$4,000 pending determination of a certain priority dispute](#), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the First Report, [the Supplementary Report](#) and the Appendices thereto, and on hearing the submissions of counsel for the Receiver and such other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as it appears from the Affidavit of Service of ► sworn ► , filed:

#### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record herein is hereby validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the First Report.

#### **APPROVAL OF FIRST REPORT, [SUPPLEMENTARY REPORT](#) AND RECEIVER'S ACTIVITIES**

3. **THIS COURT ORDERS** that the First Report, [the Supplementary Report](#) and the Receiver's activities set out therein are hereby approved, provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability shall be entitled to rely upon or utilize in any way such approval.

## TERMINATION OF UNIT 211 AGREEMENT

4. **THIS COURT ORDERS** that the Receiver's termination of the Unit 211 Agreement is hereby approved and ratified, and any rights of the parties under the Unit 211 Agreement do not constitute any continuing obligations against the Property or against any of the parties under the Unit 211 Agreement.

## HOLDBACK OF NET PROCEEDS OF SALE

5. **THIS COURT ORDERS** that the maximum aggregate entitlement of potential lien claims against the Property that could assert priority to the first-ranking Mortgage is ~~\$1,970,017.11~~ \$1,979,540.34 (being the maximum statutory holdback, as determined by the Receiver).

6. **THIS COURT ORDERS** that the Receiver shall hold back 15% of the Net Proceeds received by the Receiver from the sale any of the Unsold Units (the "**Holdback Requirement**") in trust for the benefit of lien claimants, pending resolution or determination of the entitlement of any lien claimants or further Order of this Court.

7. **THIS COURT ORDERS** that the Receiver shall set aside \$4,000 of the Net Proceeds of Sale, after adjusting for the Holdback Requirement, pending determination of that certain priority dispute relating to TA Appliances Inc.'s interest in certain appliances.

## DISTRIBUTION

8. ~~7.~~ **THIS COURT ORDERS** that, subject to the Holdback Requirement and any amounts that may be required by the Receiver to fund the receivership proceeding, the Receiver is hereby authorized and directed to distribute the Net Proceeds to the Applicants, in reduction of the first-ranking Charge/Mortgage registered against the Property.

## GENERAL

9. ~~8.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give

effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

---

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

Court File No. CV-24-00713783-00CL

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

Proceedings commenced at Toronto, Ontario

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**ORDER**  
**(Ancillary Relief)**

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Lawyers for the Court-appointed Receiver, RSM Canada  
Limited (now known as TDB Restructuring Limited)

<b>Summary report:</b>	
<b>Litera Compare for Word 11.3.0.46 Document comparison done on 2024-03-04 9:42:30 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://tgf-mobility-ca.imatech.com/CLIENT/5779311/5	
<b>Modified DMS:</b> iw://tgf-mobility-ca.imatech.com/CLIENT/5779311/6	
<b>Changes:</b>	
Add	11
Delete	5
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>16</b>





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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43,  
as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act,  
R.S.C. 1985, c. B-3, as amended*

THE HONOURABLE ) WEDNESDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF MARCH, 2024

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

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

- and -

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

**Order  
(Ancillary Relief)**

**THIS MOTION**, made by RSM Canada Limited (now known as TDB Restructuring Limited) in its capacity as Court-appointed receiver (the “**Receiver**”) of the unsold condominium units, parking units, and storage lockers legally described in the Order appointing the Receiver granted by this Court on February 6, 2024 (the “**Appointment Order**”), including all proceeds thereof (the “**Property**”) of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”) for an order among other things: (i) approving the First Report of the Receiver dated February 27, 2024 (the “**First Report**”), the Supplementary Report of the Receiver dated March 4, 2024 (the “**Supplementary Report**”) and the Receiver’s activities set out therein; (ii) ratifying the Receiver’s termination of the agreement of purchase and sale (the “**Unit 211 Agreement**”) between Vandyk-Backyard Queensview Limited and Oluwaseun Olowolafe dated November 28, 2018, as amended; (iii) establishing the maximum

priority that the lien claims, if determined to be valid, may have as against the first ranking charge/mortgage against the Property; and (iv) approving the distribution of the aggregate net proceeds (the "**Net Proceeds**") set out herein from the sale of Unit 302, subject to the Receiver first retaining and holding 15% of the Net Proceeds in trust for any lien claims that may subsequently be determined to be valid and in priority to the first mortgage registered on title to the Property and \$4,000 pending determination of a certain priority dispute, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the First Report, the Supplementary Report and the Appendices thereto, and on hearing the submissions of counsel for the Receiver and such other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as it appears from the Affidavit of Service of ► sworn ► , filed:

#### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record herein is hereby validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the First Report.

#### **APPROVAL OF FIRST REPORT, SUPPLEMENTARY REPORT AND RECEIVER'S ACTIVITIES**

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

#### **TERMINATION OF UNIT 211 AGREEMENT**

4. **THIS COURT ORDERS** that the Receiver's termination of the Unit 211 Agreement is hereby approved and ratified, and any rights of the parties under the Unit 211 Agreement do not

constitute any continuing obligations against the Property or against any of the parties under the Unit 211 Agreement.

### **HOLDBACK OF NET PROCEEDS OF SALE**

5. **THIS COURT ORDERS** that the maximum aggregate entitlement of potential lien claims against the Property that could assert priority to the first-ranking Mortgage is \$1,979,540.34 (being the maximum statutory holdback, as determined by the Receiver).

6. **THIS COURT ORDERS** that the Receiver shall hold back 15% of the Net Proceeds received by the Receiver from the sale any of the Unsold Units (the “**Holdback Requirement**”) in trust for the benefit of lien claimants, pending resolution or determination of the entitlement of any lien claimants or further Order of this Court.

7. **THIS COURT ORDERS** that the Receiver shall set aside \$4,000 of the Net Proceeds of Sale, after adjusting for the Holdback Requirement, pending determination of that certain priority dispute relating to TA Appliances Inc.’s interest in certain appliances.

### **DISTRIBUTION**

8. **THIS COURT ORDERS** that, subject to the Holdback Requirement and any amounts that may be required by the Receiver to fund the receivership proceeding, the Receiver is hereby authorized and directed to distribute the Net Proceeds to the Applicants, in reduction of the first-ranking Charge/Mortgage registered against the Property.

### **GENERAL**

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

---

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

Court File No. CV-24-00713783-00CL

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

Proceedings commenced at Toronto, Ontario

**ORDER  
(Ancillary Relief)**

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Lawyers for the Court-appointed Receiver, RSM Canada  
Limited (now known as TDB Restructuring Limited)

# Appendix K



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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43,  
as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act,  
R.S.C. 1985, c. B-3, as amended*

THE HONOURABLE ) WEDNESDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF MARCH, 2024

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

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

- and -

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

**Order  
(LIEN CLAIMS PROCESS)**

**THIS MOTION**, made by RSM Canada Limited (now known as TDB Restructuring Limited) in its capacity as Court-appointed receiver (the “**Receiver**”) of the unsold condominium units, parking units, and storage lockers legally described in the Order appointing the Receiver granted by this Court on February 6, 2024 (the “**Unsold Units**”), including all proceeds thereof (together with the Unsold Units, the “**Property**”) of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”) for an order requiring the delivery of information that would allow an assessment to be made as to the validity and priority of any construction lien claims that may be in priority to the First Mortgage (the “**Claims**”, and the holders thereof, the “**Lien Claimants**”), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the First Report of the Receiver dated February 27, [2024, the Supplementary Report of the Receiver dated March 4, 2024](#) and the Appendices thereto, and on hearing the submissions of counsel for the Receiver and such other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as it appears from the Affidavit of Service of ► sworn ► , filed:

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record herein is hereby validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the First Report [and the Supplementary Report](#).

## **PROVING CLAIMS**

3. **THIS COURT ORDERS** that forthwith after the granting of this Order, the Receiver shall provide to each Lien Claimant who has registered a lien against the Unsold Units as of the date of the Appointment Order granted in these proceedings, or counsel for such Lien Claimants as set out in the Service List in these proceedings, the form of proof of lien claim attached as **Schedule "A"** hereto, for the purpose of requesting that each Lien Claimant prove its Claim.
4. **THIS COURT ORDERS** that the completed proof of lien claim and all supporting documents shall be provided by each Lien Claimant to the Receiver on or before ~~April 1~~ [May 1](#), 2024 (the "**Claims Bar Date**"). The Claims Bar Date may only be extended by the Receiver in its sole discretion, or by further Order of the Court.
5. **THIS COURT ORDERS** that any Lien Claimant who receives the proof of lien claim from the Receiver and does not deliver a completed proof of lien claim to the Receiver by the Claims Bar Date shall be forever barred from asserting such Claim against the Debtors, the Receiver, the Property and its proceeds, and any "owner" (as defined in the *Construction Act*) of the Unsold Units comprising the Property, such Claim shall be forever discharged and extinguished.

6. **THIS COURT ORDERS** that, following repayment of the First Mortgage from the Net Proceeds of sale, and subject at all times to the Lien Holdback being maintained by the Receiver, the Receiver ~~may determine~~ shall, after consulting with counsel for the interested parties on the Service List, make a recommendation to the Court as to the most efficient and cost-effective process for having the Claims determined ~~in the form of a claims determination process to be presented to the Court at a future hearing for the Court's approval.~~

7. **THIS COURT ORDERS** that the Receiver's recommendation to the Court as described in para 6 herein shall be on notice to all interested parties, who will have an opportunity to make submissions on any aspect of the Receiver's recommendation.

8. **THIS COURT ORDERS** that any lien claims process described herein, and participation in it, is without prejudice to the right(s) of any Lien Claimant to commence or continue any claim or proceeding against any person save and except for the Receiver, and the First Mortgagee (for payments received pursuant to Orders issued in this proceeding) with respect to the issues of the Lien Claimants' priority over any other party on any legal basis ("**Lien Proceedings**"), and does not affect, truncate or waive any substantive or procedural rights and/or remedies that a Lien Claimant may have in any such Lien Proceedings. For greater certainty, any lien claims process also does not affect any substantive or procedural rights that any defendant may have to defend Lien Proceedings, save and except that the defendant may not assert in the Lien Proceedings that the Claim of any Lien Claimant ought to be dismissed or stayed on grounds of *res judicata* (issue estoppel, and/or cause of action estoppel) and/or abuse of process, by virtue of the Lien Claimant asserting a Claim in the lien claims process described herein.

9. ~~7.~~ **THIS COURT ORDERS** that ~~the Receiver shall notify all interested parties of any such proposed process~~ there shall be no requirement for any defendant in any Lien Proceeding brought by any of the Lien Claimants in respect of the Claims to deliver a Statement of Defence in that action pending further Order of this Court as to the process to be implemented for the determination of the Claims of Lien Claimants, as contemplated in paragraph 6 above.

10. **THIS COURT ORDERS** that any references to a "Lien Claimant" herein shall equally apply to any party asserting a trust claim over any proceeds from any sale of the Unsold Units.

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

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**SCHEDULE "A"**  
**PROOF OF LIEN CLAIM**

**FOR THE LIEN CLAIMS IN RESPECT OF  
the Unsold Units constituting property of Vandyk-Backyard Queensview Limited and  
Vandyk-Backyard Humberside Limited and located at 25 Neighbourhood Lane, Toronto, Ontario  
(the "Property")**

**A. PARTICULARS OF LIEN CLAIMANT**

1. Full legal name of the lien claimant \_\_\_\_\_ (the "Lien Claimant")
2. Full Mailing address of the Lien Claimant:
3. Telephone Number:  
Email address:  
Attention (Contact Person):

**B. PROOF OF LIEN CLAIM**

I \_\_\_\_\_ (state name, position and title) of the City of \_\_\_\_\_ in the Province of \_\_\_\_\_, do solemnly declare and say as follows.

That I am the authorized representative of the Lien Claimant and have knowledge of all the circumstances connected with the Lien Claim.

That at the date hereof, \_\_\_\_\_ [*insert name of Owner or Contractor*] was, and still is, indebted to the Lien Claimant for materials and services supplied on the following contract or contracts in the amounts noted herein.

*(specify the particular contract or contracts on which materials and services were supplied, the amounts owing and, in detail, the amount of material and services supplied to the improvement).*

**C. DOCUMENTS IN SUPPORT OF LIEN CLAIM**

I attach the following documents in support of the Lien Claim:

- Copy of full, executed Contract, Subcontract or Purchase Order (as applicable)
- If applicable, a copy of the agreed Schedule of Values for the work to be performed under the Contract, Subcontract or Purchase Order
- Copies of all change orders, change directives, pending, unapproved or disputed changes and any other claims for a change in the price of the Contract, Subcontract or Purchase Order.
- Copies of all invoices submitted to the Owner or Contractor (as applicable), including all supporting documentation (i.e., Schedule of Values, CCDC9 Statutory Declarations, WSIB Certificates)
- Copies of all payments from the Owner or Contractor (as applicable)
- Summary reconciliation of all invoices issued under the Contract, Subcontract or Purchase Order and all payments received by the Owner or Contractor
- Evidence of the date of last supply under the Contract, Subcontract or Purchase Order
- Evidence of the nature of the unfinished work (if any) and its value in respect of the Contract, Subcontract or Purchase Order as of the date of last supply
- Notices and/or correspondence to and from the Lien Claimant and the Owner or Contractor relevant to the Lien Claim
- Any written notice(s) of lien provided by the Lien Claimant to anyone having a mortgage over the Property, with proof of service
- Copy of the Claim for Lien and the Statement of Claim, if applicable
- Any other documents the Lien Claimant considers relevant to the Lien Claim

**D. FILING PROOF OF LIEN CLAIM**

A Proof of Lien Claim must be received by the Receiver by 5:00 p.m. (Eastern Standard Time) on April 1, 2024 (the "Claims Bar Date"), or such later date as the Receiver may consent to in writing, or as ordered by the Court.

Failure to file your Proof of Lien Claim as directed by the relevant Claims Bar Date will, among other things, result in your lien claim being barred and you will be prohibited from making or enforcing a lien claim against the Property.

This Proof of Lien Claim must be delivered by electronic communication to:

TDB Advisory Limited  
11 King St. W, Suite 700  
Toronto, Ontario M5H 4C7

Attention: Jeff Berger,  
email: jberger@tdbadvisory.ca  
tel: 647-726-0496

Any such notice or other communication delivered by a lien claimant shall be deemed to be received upon actual receipt by the Receiver thereof prior to 5:00 p.m. (Eastern Standard Time) on a day that is not a holiday (as defined in the *Rules of Civil Procedure*) or, if delivered after 5:00 p.m. (Eastern Standard Time), on the next day that is not a holiday.

...

I acknowledge that the information contained in this declaration, and the documents included herein, are being provided to assist the Court-appointed Receiver of the Property (the "**Receiver**") in connection with its review and evaluation of the Lien Claims and pursuant to paragraph 6 of the Receivership Order dated February 6, 2024. I further acknowledge that the provision of the information and documentation provided herein does not constitute an acknowledgement by the Receiver of the accuracy of such information or the admissibility such documentation.

I make this declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Dated at the [*City/Town*] of \_\_\_\_\_ in the Province of \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*(A Commissioner for Oaths, Notary Public, Justice of the Peace, etc.)*

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

Court File No. CV-24-00713783-00CL

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

Proceedings commenced at Toronto, Ontario

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**ORDER**  
**(Lien Claims Process)**

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**THORNTON GROUT FINNIGAN LLP**  
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TD West Tower, Toronto-Dominion Centre  
Toronto, ON M5K 1K7

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Lawyers for the Court-appointed Receiver, RSM Canada  
Limited (now known as TDB Restructuring Limited)

<b>Summary report:</b>	
<b>Litera Compare for Word 11.3.0.46 Document comparison done on 2024-03-04 11:11:41 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://tgf-mobility-ca.imatech.com/CLIENT/5779933/6	
<b>Modified DMS:</b> iw://tgf-mobility-ca.imatech.com/CLIENT/5787759/2	
<b>Changes:</b>	
Add	15
Delete	6
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>21</b>



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

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43,  
as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act,  
R.S.C. 1985, c. B-3, as amended*

THE HONOURABLE ) WEDNESDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF MARCH, 2024

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

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

- and -

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

**Order  
(LIEN CLAIMS PROCESS)**

**THIS MOTION**, made by RSM Canada Limited (now known as TDB Restructuring Limited) in its capacity as Court-appointed receiver (the “**Receiver**”) of the unsold condominium units, parking units, and storage lockers legally described in the Order appointing the Receiver granted by this Court on February 6, 2024 (the “**Unsold Units**”), including all proceeds thereof (together with the Unsold Units, the “**Property**”) of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”) for an order requiring the delivery of information that would allow an assessment to be made as to the validity and priority of any construction lien claims that may be in priority to the First Mortgage (the “**Claims**”, and the holders thereof, the “**Lien Claimants**”), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the First Report of the Receiver dated February 27, 2024, the Supplementary Report of the Receiver dated March 4, 2024 and the Appendices thereto, and on hearing the submissions of counsel for the Receiver and such other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as it appears from the Affidavit of Service of ► sworn ► , filed:

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record herein is hereby validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the First Report and the Supplementary Report.

## **PROVING CLAIMS**

3. **THIS COURT ORDERS** that forthwith after the granting of this Order, the Receiver shall provide to each Lien Claimant who has registered a lien against the Unsold Units as of the date of the Appointment Order granted in these proceedings, or counsel for such Lien Claimants as set out in the Service List in these proceedings, the form of proof of lien claim attached as **Schedule "A"** hereto, for the purpose of requesting that each Lien Claimant prove its Claim.
4. **THIS COURT ORDERS** that the completed proof of lien claim and all supporting documents shall be provided by each Lien Claimant to the Receiver on or before May 1, 2024 (the "**Claims Bar Date**"). The Claims Bar Date may only be extended by the Receiver in its sole discretion, or by further Order of the Court.
5. **THIS COURT ORDERS** that any Lien Claimant who receives the proof of lien claim from the Receiver and does not deliver a completed proof of lien claim to the Receiver by the Claims Bar Date shall be forever barred from asserting such Claim against the Debtors, the Receiver, the Property and its proceeds, and any "owner" (as defined in the *Construction Act*) of the Unsold Units comprising the Property, such Claim shall be forever discharged and extinguished.

6. **THIS COURT ORDERS** that, following repayment of the First Mortgage from the Net Proceeds of sale, and subject at all times to the Lien Holdback being maintained by the Receiver, the Receiver shall, after consulting with counsel for the interested parties on the Service List, make a recommendation to the Court as to the most efficient and cost-effective process for having the Claims determined.

7. **THIS COURT ORDERS** that the Receiver's recommendation to the Court as described in para 6 herein shall be on notice to all interested parties, who will have an opportunity to make submissions on any aspect of the Receiver's recommendation.

8. **THIS COURT ORDERS** that any lien claims process described herein, and participation in it, is without prejudice to the right(s) of any Lien Claimant to commence or continue any claim or proceeding against any person save and except for the Receiver, and the First Mortgagee (for payments received pursuant to Orders issued in this proceeding) with respect to the issues of the Lien Claimants' priority over any other party on any legal basis ("**Lien Proceedings**"), and does not affect, truncate or waive any substantive or procedural rights and/or remedies that a Lien Claimant may have in any such Lien Proceedings. For greater certainty, any lien claims process also does not affect any substantive or procedural rights that any defendant may have to defend Lien Proceedings, save and except that the defendant may not assert in the Lien Proceedings that the Claim of any Lien Claimant ought to be dismissed or stayed on grounds of *res judicata* (issue estoppel, and/or cause of action estoppel) and/or abuse of process, by virtue of the Lien Claimant asserting a Claim in the lien claims process described herein.

9. **THIS COURT ORDERS** that there shall be no requirement for any defendant in any Lien Proceeding brought by any of the Lien Claimants in respect of the Claims to deliver a Statement of Defence in that action pending further Order of this Court as to the process to be implemented for the determination of the Claims of Lien Claimants, as contemplated in paragraph 6 above.

10. **THIS COURT ORDERS** that any references to a "Lien Claimant" herein shall equally apply to any party asserting a trust claim over any proceeds from any sale of the Unsold Units.

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

---

**SCHEDULE "A"**  
**PROOF OF LIEN CLAIM**

**FOR THE LIEN CLAIMS IN RESPECT OF  
the Unsold Units constituting property of Vandyk-Backyard Queensview Limited and Vandyk-  
Backyard Humberside Limited and located at 25 Neighbourhood Lane, Toronto, Ontario  
(the "Property")**

**A. PARTICULARS OF LIEN CLAIMANT**

1. Full legal name of the lien claimant \_\_\_\_\_ (the "Lien Claimant")
2. Full Mailing address of the Lien Claimant:
3. Telephone Number:  
  
Email address:  
  
Attention (Contact Person):

**B. PROOF OF LIEN CLAIM**

I \_\_\_\_\_ (state name, position and title) of the City of \_\_\_\_\_ in the Province of \_\_\_\_\_, do solemnly declare and say as follows.

That I am the authorized representative of the Lien Claimant and have knowledge of all the circumstances connected with the Lien Claim.

That at the date hereof, \_\_\_\_\_ [*insert name of Owner or Contractor*] was, and still is, indebted to the Lien Claimant for materials and services supplied on the following contract or contracts in the amounts noted herein.

*(specify the particular contract or contracts on which materials and services were supplied, the amounts owing and, in detail, the amount of material and services supplied to the improvement).*



**C. DOCUMENTS IN SUPPORT OF LIEN CLAIM**

I attach the following documents in support of the Lien Claim:

- Copy of full, executed Contract, Subcontract or Purchase Order (as applicable)
- If applicable, a copy of the agreed Schedule of Values for the work to be performed under the Contract, Subcontract or Purchase Order
- Copies of all change orders, change directives, pending, unapproved or disputed changes and any other claims for a change in the price of the Contract, Subcontract or Purchase Order.
- Copies of all invoices submitted to the Owner or Contractor (as applicable), including all supporting documentation (i.e., Schedule of Values, CCDC9 Statutory Declarations, WSIB Certificates)
- Copies of all payments from the Owner or Contractor (as applicable)
- Summary reconciliation of all invoices issued under the Contract, Subcontract or Purchase Order and all payments received by the Owner or Contractor
- Evidence of the date of last supply under the Contract, Subcontract or Purchase Order
- Evidence of the nature of the unfinished work (if any) and its value in respect of the Contract, Subcontract or Purchase Order as of the date of last supply
- Notices and/or correspondence to and from the Lien Claimant and the Owner or Contractor relevant to the Lien Claim
- Any written notice(s) of lien provided by the Lien Claimant to anyone having a mortgage over the Property, with proof of service
- Copy of the Claim for Lien and the Statement of Claim, if applicable
- Any other documents the Lien Claimant considers relevant to the Lien Claim

**D. FILING PROOF OF LIEN CLAIM**

A Proof of Lien Claim must be received by the Receiver by 5:00 p.m. (Eastern Standard Time) on April 1, 2024 (the "Claims Bar Date"), or such later date as the Receiver may consent to in writing, or as ordered by the Court.

Failure to file your Proof of Lien Claim as directed by the relevant Claims Bar Date will, among other things, result in your lien claim being barred and you will be prohibited from making or enforcing a lien claim against the Property.

This Proof of Lien Claim must be delivered by electronic communication to:

TDB Advisory Limited  
11 King St. W, Suite 700  
Toronto, Ontario M5H 4C7

Attention: Jeff Berger,  
email: [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca)  
tel: 647-726-0496

Any such notice or other communication delivered by a lien claimant shall be deemed to be received upon actual receipt by the Receiver thereof prior to 5:00 p.m. (Eastern Standard Time) on a day that is not a holiday (as defined in the *Rules of Civil Procedure*) or, if delivered after 5:00 p.m. (Eastern Standard Time), on the next day that is not a holiday.

...

I acknowledge that the information contained in this declaration, and the documents included herein, are being provided to assist the Court-appointed Receiver of the Property (the "**Receiver**") in connection with its review and evaluation of the Lien Claims and pursuant to paragraph 6 of the Receivership Order dated February 6, 2024. I further acknowledge that the provision of the information and documentation provided herein does not constitute an acknowledgement by the Receiver of the accuracy of such information or the admissibility such documentation.

I make this declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Dated at the [*City/Town*] of \_\_\_\_\_ in the Province of \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*(A Commissioner for Oaths, Notary Public, Justice of the Peace, etc.)*

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

Court File No. CV-24-00713783-00CL

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

Proceedings commenced at Toronto, Ontario

**ORDER  
(Lien Claims Process)**

**THORNTON GROUT FINNIGAN LLP**  
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Lawyers for the Court-appointed Receiver, RSM Canada  
Limited (now known as TDB Restructuring Limited)

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

Court File No. CV-24-00713783-00CL

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

Proceedings commenced at Toronto, Ontario

**SUPPLEMENTAL REPORT OF THE RECEIVER**

**THORNTON GROUT FINNIGAN LLP**  
3200 – 100 Wellington Street West  
TD West Tower, Toronto-Dominion Centre  
Toronto, ON M5K 1K7

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**Rudrakshi Chakrabarti (LSO# 86868U)**

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Lawyers for the Court-appointed Receiver, TDB  
Restructuring Limited