



Court File No. CV-22-00674747-00CL

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

THE HONOURABLE MR. )  
JUSTICE OSBORNE )  
 )  
 )

MONDAY, THE 3<sup>rd</sup>  
DAY OF OCTOBER 2022

B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**AREACOR INC.**

Respondent

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

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by RSM Canada Limited., in its capacity as the Court-appointed receiver (the "**Receiver**"), without security, of all of the undertakings, properties and assets of Areacor Inc. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Marbelle Estates Inc. ("**Marbelle**") dated August 26, 2022, and appended to the Second Report of the Receiver dated September 8, 2022 (the "**Second Report**"), and vesting in Marbelle's nominee, 1000326952 Ontario Inc. (the "**Purchaser**") the Debtor's rights, title and interests in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day by judicial videoconference at the Courthouse at 330 University Avenue, Toronto, Ontario.

**ON READING** the Second Report and the confidential appendices to the Second Report, filed separately with the Court (the “**Confidential Appendices**”), the Affidavit of Roni Gilyana sworn September 26, 2022, the Supplement to the Second Report dated September 28, 2022, the Affidavit of Brendan Bowles sworn September 29, 2022, and the Affidavit of Amanda Adamo sworn October 1, 2022, and on hearing the submissions of counsel for the Receiver, the Debtor, Fusioncorp Developments Inc. and such other counsel and parties as listed on the Counsel Slip, no one else appearing for any other person on the service list, although properly served as appears from the affidavits of service, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as **Schedule “A”** hereto (the “**Receiver's Certificate**”), all of the Debtor’s rights, title and interests in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Mr. Justice Cavanagh dated January 13, 2022 ; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule “C”** hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule “D”** hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office (#62) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in **Schedule “B”** hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule “C” hereto.

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

5. **THIS COURT ORDERS** that the Existing Purchase Agreements (as defined in the Second Report) between the Debtor and purchasers of residential condominium units (the “**Condo Purchasers**”) that were to be built by the Debtor on the Real Property, shall be terminated on the date on which the Receiver delivers the Receiver’s Certificate pursuant to paragraph 2 hereof. The Receiver be and is hereby directed to (a) deliver a copy of this Order, by mail or email (where possible) to each of the Condo Purchasers forthwith following the issuance hereof; (b) deliver a copy of the Receiver’s Certificate by the same means to each of the Condo Purchasers forthwith after delivery thereof, confirming the termination of the Existing Purchase Agreements, and (c) notify each of the Condo Purchasers that the refund of any deposits to which they may be entitled shall be in accordance with the Deposit Refund Protocol attached as **Schedule “E”** hereto.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser information in the Debtor's records. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal

information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

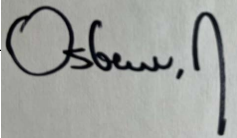
8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of either of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of either of the Debtors.

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of either of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

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



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**Schedule "A" – Form of Receiver's Certificate**

Court File No. CV-22-00674747-00CL

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

B E T W E E N:

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Applicant

- and -

**AREACOR INC.**

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

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of The Honourable Justice Cavanagh the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 13, 2022, RSM Canada Limited was appointed as the receiver (the "**Receiver**"), without security, of all of the undertakings, properties and assets of Areacor Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated October 3, 2022, the Court approved the agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Marbelle Estates Inc. and provided for the vesting in 1000326952 Ontario Inc. (the "**Purchaser**") of the Debtor's rights, title and interests in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing set out in the Sale Agreement have been

satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Receiver.

THIS CERTIFICATE was delivered by the Receiver at <\*> on <\*>, 2022.

**RSM CANADA LIMITED**, solely in its capacity as Court-appointed Receiver of of all of the undertakings, properties and assets of Areacor Inc. and not in any persona, corporate or other capacity

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

Name:

Title:

**Schedule “B” – Real Property**

**Municipal Address:** 15 Cannon Street West, Hamilton, Ontario

**Legal Description:** PIN 17586-0153 (LT)

Part of Lot 13, Block 6 Plan 39, Part 1 on 62R-21575, subject to easement as in Instrument No. WE1493193; City of Hamilton, being all of PIN 17586-0153 (LT)

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

<b>Reg. No.</b>	<b>Date</b>	<b>Instrument Type</b>	<b>Amount</b>	<b>Parties From</b>	<b>Parties To</b>
WE1252218	Nov 23, 2017	Charge	\$3,500,000	Debtor & Roni Gilyana	Aviva Insurance Company of Canada
WE1293837	June 29, 2018	Charge	\$12,000,000	Debtor & Roni Gilyana	MarshallZehr Group Inc.
WE1293838	June 29, 2018	No Assgn Rent		Debtor & Roni Gilyana	MarshallZehr Group Inc.
WE1293839	Jun 29, 2018	No Assgn Rent Gen		Debtor	MarshallZehr Group Inc.
WE1293840	Jun 29, 2018	Restriction-Land		Debtor & Roni Gilyana	
WE1293841	Jun 29, 2018	Restriction-Land		Debtor	
WE1294556	Jul 5, 2018	Postponement		Aviva Insurance Company of Canada	MarshallZehr Group Inc.
WE1344993	Mar 22, 2019	Notice	\$2	Debtor	MarshallZehr Group Inc.
WE1351712	Apr 30, 2019	Charge	\$208,756	Debtor	City of Hamilton
WE1493194	Feb 25, 2021	Postponement		Aviva Insurance Company of Canada	Bell Canada
WE1493195	Feb 25, 2021	Postponement		MarshallZehr Group Inc.	Bell Canada
WE1567387	Dec 10, 2021	Construction Lien	\$2,436,674	Fusioncorp Developments Inc.	
WE1570556	Dec 21, 2021	Certificate		Fusioncorp Developments Inc.	Debtor & MarshallZehr Group Inc.
WE1574019	Jan 11, 2022	Construction Lien	\$176,618	Demand Electric Inc.	



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WE1575349	Jan 17 2022	Certificate		Demand Electric Inc.	
WE1577044	Jan 21, 2022	Apl Court Order		Superior Court of Justice (Commercial List)	RSM Canada Limited
WE1578689	Jan 28 2022	Construction Lien	\$88,692	Earl O'Neil Electric Supply Limited	
WE1590029	Jun 17 2022	Construction Lien	\$52,545	Northstar Scaffold (Ontario) Inc.	
WE1614092	Jun 17 2022	Certificate		Earl O'Neil Electric Supply Limited	
WE1635757	Sept 26 2022	Notice		MarshallZehr Group Inc.	

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

**(unaffected by the Vesting Order)**

**SPECIFIC PERMITTED ENCUMBRANCES / REGISTRATIONS**

<b>Reg. No.</b>	<b>Date</b>	<b>Instrument Type</b>	<b>Amount</b>	<b>Parties From</b>	<b>Parties To</b>
WE1132144	Jul 7, 2016	Transfer	\$285,000	Arthur Terrance Cook	Debtor
WE1185398	Feb 10, 2017	Transfer		Roni Kilyana	Roni Kilyana & Debtor
WE1303020	Aug 16, 2018	Transfer	\$305,350	Roni Kilyana	Debtor
WE1329678	Dec 24 2018	Notice	\$2	Debtor	City of Hamilton
WE1375037	Aug 19 2019	Appl to Consolidate		Debtor	
62R21575	Nov 25, 2020	Plan Reference			
WE1472027	Nov 25, 2020	Apl Absolute Title		Debtor	
WE1493193	Feb 25, 2021	Transfer Easement	\$2	Debtor	Bell Canada

**GENERAL PERMITTED ENCUMBRANCES**

1. Any registered reservations, restrictions, rights of way, easements or covenants that run with the Real Property.
2. Any registered agreements with a municipality or a supplier of utility service including, without limitation, electricity, water, sewage, gas, telephone or cable television or other telecommunication service.
3. All applicable laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Real Property.
4. Any minor easements for the supply of utility service to the Real Property or adjacent properties.

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5. Encroachments disclosed by any errors or omissions in existing surveys of the Real Property or neighbouring properties and any title defect, encroachment or breach of a zoning or building by-laws or any other applicable law, by-laws or regulations which might be disclosed by a more up-to-date survey of the land and survey matters generally.
6. The exceptions and qualifications set forth in the *Land Titles Act* (Ontario).
7. The reservations, limitations, provisos and conditions contained in the original grant from the Crown.
8. Liens for taxes if such taxes are not due and payable.
9. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Real Property or any part thereof, or materially impair the value thereof.

## Schedule “E” – Deposit Refund Protocol

### Deposit Refund Protocol (the “Protocol”)

#### For Jamesville Lofts Project

- 1) Pursuant to paragraph 5 of the Approval and Vesting Order dated October 3, 2022 (the “**Court Order**”) issued in the receivership proceeding of Areacor Inc. (“**Areacor**”), all of the Unit Purchase Agreements (“**Unit APSs**”) for the Jamesville Lofts project known municipally as 11-15 Cannon Street West, Hamilton Ontario (the “**Areacor Project**”) have been terminated.
- 2) RSM Canada Limited in its capacity as the Court-appointed receiver (the “**Receiver**”) of Areacor shall send letters to the known purchasers under the Unit APSs (the “**Purchasers**”) notifying them that the Unit APSs have been terminated pursuant to the Court Order, notifying them that Aviva Insurance Company of Canada (“**Aviva**”), Tarion Warranty Corporation (“**Tarion**”) and the Receiver have agreed upon a protocol to refund the deposits (which deposit amounts include any amounts that would be a valid deposit claim under the *Ontario New Home Warranties Plan Act*) that the Purchasers provided under the Unit APSs (the “**Deposits**”) and attaching the Release and Termination Agreement (attached as Schedule “A”). Aviva shall be copied on the Receiver’s letters to the Purchasers and Tarion shall receive copies of such letters.
- 3) Aviva shall request that the Deposits, together with any accrued interest thereon, be provided by Harris Sheaffer LLP, in its capacity as escrow agent, to Aviva or its authorized agent (collectively, “**Aviva**”), to be held by Aviva pursuant to the terms of this Protocol.
- 4) The Receiver will provide a Statutory Declaration, in the form attached as Schedule “B”.
- 5) The Areacor Project principal will be asked to provide the Statutory Declaration, in the form attached as Schedule “C”, to Tarion. Failure by the Areacor Project’s principal to provide the Statutory Declaration and will not prevent the return of the Deposits to the Purchasers and is not a condition of such return.
- 6) The Purchasers will return their executed Release and Termination Agreement to Aviva, together with a copy of their photo ID.
- 7) Aviva will assemble an electronic brief (“**Brief**”) in respect of each of the Unit APSs for the Areacor Project, which Brief will include the following (to the extent available):
  - a) Executed Release and Termination Agreement;
  - b) Copy of Purchaser’s photo ID; and
  - c) Copy of the first page of the applicable Unit APS
- 8) Aviva will send the available Briefs to Tarion monthly.

- 9) On a monthly basis, upon Tarion confirming to Aviva that the documentation in the applicable Briefs is complete and that its liability to the relevant Purchasers for claims for the return of their respective Deposits will be extinguished once Aviva releases such Deposits to such Purchasers, Aviva will release the Deposits to the relevant Purchasers. This process will be carried out on a timely basis, such that Tarion will provide Aviva with its confirmation within ten business days of receipt of a Brief from Aviva.
- 10) Aviva will then distribute the Deposit refund cheques in the names of the applicable Purchasers.
- 11) Upon the release of Deposits, Aviva will provide to Tarion confirmation of the release of the Deposit refund cheques in respect of the applicable Unit APSs by providing a Statutory Declaration in the form attached as Schedule "D".
- 12) Upon receipt of the confirmation referred to in paragraph 11 and being satisfied that its liability to the relevant Purchasers for claims in respect of their respective Deposits has been extinguished, Tarion will provide confirmation to Aviva on a monthly basis that the Tarion Bond is reduced by the relevant amount on a unit-by-unit basis.
- 13) Aviva will provide Tarion with a monthly ledger of the Deposits released and Deposits not released.
- 14) Once all Deposits have been returned to Purchasers and upon being satisfied that its liability to the relevant Purchasers for claims in respect of their respective Deposits has been extinguished, Tarion will correspondingly reduce the amount of the Tarion Bond; provided, however, that Tarion shall at all times be entitled to retain a sufficient portion of the Tarion Bond to cover Tarion's liabilities in respect of amounts secured by the Tarion Bond that have not been extinguished at the time of any reduction. Upon being satisfied that its liability in respect of amounts secured by the Tarion Bond has been extinguished, Tarion will return the Tarion Bond to Aviva for cancellation within 30 calendar days.

SCHEDULE "A" TO DEPOSIT REFUND PROTOCOL

**RELEASE AND TERMINATION AGREEMENT**

BETWEEN: **AREACOR INC.**

(hereinafter called the "**Vendor**")

- and -

\_\_\_\_\_

(hereinafter collectively called the "**Purchaser**")

**WHEREAS** the Purchaser and the Vendor entered into an agreement of purchase and sale dated \_\_\_\_\_, (the "**Purchase Agreement**") pertaining to the Purchaser's acquisition from the Vendor of DWELLING UNIT \_\_\_\_ on LEVEL \_\_\_\_\_, \_\_\_\_\_ ( ) PARKING UNIT(S) and \_\_\_\_\_ ( ) LOCKER UNIT(S), together with an undivided interest in the common elements appurtenant to such units (all of which are hereinafter collectively defined as the "**Purchased Units**"), in accordance with the condominium plan documentation proposed to be registered against those lands and premises situate in the City of Toronto, municipally located at \_\_\_\_\_ and legally described as \_\_\_\_\_ and more particularly described in the Purchase Agreement (the "**Jamesville Lofts Project**");

**AND WHEREAS** pursuant to an Order made by the Superior Court of Justice (Commercial List) for Ontario (the "**Court**") dated the \_\_\_\_\_, RSM Canada Inc. (the "**Receiver**") was appointed as Receiver under the *Bankruptcy and Insolvency Act*;

**AND WHEREAS** pursuant to an Order made by the Court dated the \_\_\_\_\_, the Purchase Agreement, along with all agreements of purchase and sale between the Vendor and the purchasers of residential dwellings within the Jamesville Lofts Project, was terminated;

**AND WHEREAS** a protocol for the release of deposits back to the purchasers (the "**Protocol**") has been established upon the terms and provisions as set out herein;

**NOW THEREFORE THESE PRESENTS WITNESSETH** that in consideration of the mutual covenants and releases hereinafter set forth, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged), the parties hereto hereby confirm the accuracy and veracity of the foregoing recitals, and do hereby covenant and agree to the following:

1. The Vendor and Purchaser acknowledge that the Purchase Agreement, together with any and all addendums thereto or amendments thereof, has been terminated and is of no further force or effect.
2. In accordance with the Protocol, upon the execution of these presents by both parties hereto and

delivery of same to Aviva Insurance Company of Canada ("**Aviva**") and following review and approval of same by the Tarion Warranty Corporation ("**Tarion**"), the Vendor shall refund and remit to the Purchaser the sum of \$\_\_\_\_\_ representing the aggregate of all deposit monies heretofore paid by the Purchaser to the Vendor on account of the purchase price for the Purchased Units (hereinafter collectively referred to as the "**Deposit Monies**"), together with any interest accruing thereon that the Purchaser is entitled to receive pursuant to the terms and provision of the Purchase Agreement and/or the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended. For clarity, such accrued interest is nil.

3. The parties hereto hereby mutually release each other, and each of their respective heirs, estate trustees, successors and assigns, from and against any and all costs, damages, actions, proceedings, demands and/or claims whatsoever which either of the parties hereto now has, or may hereafter have, against the other party hereto, by reason of, or in connection with, the Purchase Agreement (and any and all addendums thereto or amendments thereof) and/or the termination thereof pursuant to the provisions hereof.
4. Without restricting the generality of the foregoing, it is expressly understood and agreed that the Purchaser shall not make or pursue any claim(s) or proceeding(s) with respect to the Purchase Agreement, the Purchased Units, the Deposit Monies and/or the Jamesville Lofts Project, against the Vendor, Tarion, Aviva, Harris Schaeffer (the Vendor's Solicitor) or the Receiver, or any other surety company or companies that have issued one or more bonds to Tarion in connection with the Jamesville Lofts Project, nor against any party acting as escrow agent or as a prescribed trustee with respect to purchasers' deposit monies, nor against any other person(s) or corporation(s) entitled to claim (or who might claim) contribution or indemnity from the Vendor in connection with the Purchase Agreement or the termination thereof pursuant to these presents, or in connection with the Jamesville Lofts Project.
5. The Purchaser acknowledges and confirms that all of the estate, right, title and interest of the Purchaser in and to the Purchased Units and the Jamesville Lofts Project (both at law and in equity, and whether in possession, expectancy or otherwise) have been released and quit-claimed to and in favour of the Vendor and its successors and assigns forever.
6. In the event that all or any portion of the Deposit Monies heretofore received by the Vendor were drawn on the bank account of a third party who is not the Purchaser (nor one of the individuals who collectively comprise the Purchaser), then the Purchaser shall indemnify and save the Vendor harmless, from and against all costs, claims, damages and/or liabilities which either or both of them may hereafter suffer or incur as a result of the Deposit Monies being refunded directly to the Purchaser in accordance with these presents, rather than being payable and remitted directly to said third party.
7. The Purchaser agrees to furnish with the execution of this Agreement a clear scan or photocopy of government issued photo identification.
8. The Purchaser acknowledges and confirms having had the opportunity to receive independent legal advice from qualified counsel with respect to all matters herein and has received such advice or has expressly declined or waived the opportunity to do so.
9. This Agreement shall enure to the benefit of, and be correspondingly binding upon, the parties hereto and each of their respective heirs, estate trustees, successors and permitted assigns.

10. This Agreement shall be construed in accordance with (and the parties hereto shall be governed by) the laws of the Province of Ontario, and each of the parties hereto shall attorn to the jurisdiction of the courts of the Province of Ontario.
11. This Agreement shall be read and construed with all changes of gender and/or number required by the context, and if more than one individual comprises the Purchaser, then all of the foregoing covenants and agreements of the Purchaser shall be deemed and construed to be joint and several covenants and agreements thereof.
12. Each of the parties hereto further acknowledges and agrees that these presents may be executed via telefax transmission (and the execution of a telefaxed version hereof by any or all of the undersigned parties shall have the same force and effect as if same were originally executed), and that a photocopy, telefaxed copy or scanned e-mailed copy of this executed Mutual Release and Termination Agreement may be relied upon to the same extent as if it were an original executed version.

**IN WITNESS WHEREOF** each of the parties hereto has hereunto executed these presents effective this        day of        , 2022.

SIGNED, SEALED AND DELIVERED

in the presence of:

\_\_\_\_\_

**Witness Name:**

**Address:**

**Phone No.:**

\_\_\_\_\_

**Name:**

**AREACOR INC.**

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

**Name:**

**Authorized Signing Officer**

I have authority to bind the Corporation



SCHEDULE “B” TO DEPOSIT REFUND PROTOCOL

**STATUTORY DECLARATION**

CANADA	)	IN THE MATTER OF the proposed development of a condominium project by Areacor Inc. (the “ <b>Owner</b> ”) situated in the City of Hamilton on those lands and premises previously owned by the Owner located at the address known municipally as 11-15 Cannon Street West, Hamilton Ontario (the “ <b>Property</b> ”)
	)	
PROVINCE OF ONTARIO	)	
	)	
	)	
	)	
	)	
	)	
TO WIT:	)	
	)	

I, <\*>, of the City of <\*>, DO SOLEMNLY DECLARE THAT:

1. I am a <\*> of RSM Canada Inc., which was appointed as the Court-appointed receiver of the Owner pursuant to the *Bankruptcy and Insolvency Act* and the *Courts of Justice Act* (the “**Receiver**”).
2. To the best of my knowledge and belief, which is based on information provided to the Receiver by the Owner, the Owner owned a 100% interest in the Property prior to it being sold in the Owner’s receivership proceedings.
3. To the best of my knowledge and belief, which is based on information provided to the Receiver by the Owner, the Owner is not proceeding with the Project known as “Jamesville Lofts” that the Owner had proposed to construct on the Property (the “**Project**”).
4. To the best of my knowledge and belief, which is based on information provided to the Receiver by the Owner and Harris Sheaffer LLP in its capacity as escrow agent: (i) the Owner was party to 29 agreements of purchase and sale with respect to units in the Project as of January 13, 2022 (collectively, the “**Condominium Sales Agreements**”), listed on “Exhibit “A” hereto; and (ii) since January 13, 2022, and aside from the agreement pursuant to which the Property was sold in the receivership proceedings, no other agreements of purchase and sale have been entered into by the Owner or the Receiver in respect of the Project or the Property.
5. Nothing has come to my attention that would suggest that sales of units in the Project were agreed to by the Owner after January 13, 2022.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

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**DECLARED BEFORE ME** in )  
City of Toronto, in the Province of )  
Ontario, this <\*> day of )  
<\*>, 2022. )

**RSM CANADA INC., solely in its capacity as the  
Court-appointed receiver and manager of the  
Owner, and not in its personal, corporate or any  
other capacity**

\_\_\_\_\_)  
A COMMISSIONER, ETC. )

\_\_\_\_\_)  
Name: <\*> )  
Title: <\*> )

SCHEDULE "C" TO DEPOSIT REFUND PROTOCOL

**STATUTORY DECLARATION**

CANADA	)	IN THE MATTER OF the proposed development of
	)	a condominium project by Areacor Inc. (the
	)	"Owner") situated in the City of Hamilton on those
PROVINCE OF ONTARIO	)	lands and premises previously owned by the Owner
	)	located at the address known municipally as 11-15
	)	Cannon Street West, Hamilton Ontario (the
	)	"Property")
	)	
	)	
TO WIT:	)	

I, <\*>, of the City of Toronto, DO SOLEMNLY DECLARE THAT:

1. I am the <\*> of the Owner, and as such have knowledge of the matters hereinafter declared.
2. To the best of my knowledge, the Owner is not proceeding with the Project known as "Jamesville Lofts" that the Owner had proposed to construct on the Property (the "Project").
3. To the best of my knowledge, the Owner provided all deposits they received in respect of the sale of condominium units in the Project to Harris Schaeffer, the escrow agent for the Owner.
4. To the best of my knowledge, the Owner entered into only <\*> agreements of purchase and sale for condominium units in the Project and did not enter into any other agreements of purchase and sale for the condominium units in the Project.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

**DECLARED BEFORE ME** in )  
City of Toronto, in the Province of )  
Ontario, this <\*> day of )

<\*>, 2022. )  
) )

\_\_\_\_\_)  
A COMMISSIONER, ETC. )

\_\_\_\_\_  
<\*>

SCHEDULE "D" TO DEPOSIT REFUND PROTOCOL

**STATUTORY DECLARATION**

CANADA	)	IN THE MATTER OF the proposed development of
	)	a condominium project by Areacor Inc. (the
	)	"Owner") situated in the City of Hamilton on those
PROVINCE OF ONTARIO	)	lands and premises previously owned by the Owner
	)	located at the address known municipally as 11-15
	)	Cannon Street West, Hamilton Ontario (the
	)	"Property")
	)	
	)	
TO WIT:	)	

I, <\*>, of the City of <\*>, DO SOLEMNLY DECLARE THAT:

1. I am a <\*> of Aviva Insurance Company of Canada ("Aviva"), the surety for the Project known as "Jamesville Lofts" that the Owner had proposed to construct on the Property (the "Project").
2. To the best of my knowledge, all deposits paid under agreements of purchase and sale in respect of Project condominium units numbered <\*>, <\*> and <\*> have been refunded to the respective purchasers of such units by Aviva.

AND I MAKE THIS solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

<b>DECLARED BEFORE ME</b> in	)	<b>Aviva Insurance Company of Canada</b>
City of Toronto, in the Province of	)	
Ontario, this <*> day of	)	
<*>, 2022.	)	
	)	
	)	
_____	)	Name: _____ <*>
A COMMISSIONER, ETC.	)	Title: <*>

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

**Court File No. CV-22-00674747-00CL**

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

**Proceedings commenced at Toronto**

**APPROVAL & VESTING ORDER**

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