

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

BETWEEN:

**VECTOR FINANCIAL SERVICES LIMITED**

Applicant

and

**HIGHYON DEVELOPMENT NO. 118 LP and HIGHYON GP NO. 118 CORP.**

Respondent

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended**

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**APPLICATION RECORD  
(Returnable March 20, 2020)**

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March 9, 2020

**GOWLING WLG (CANADA) LLP**

Barristers and Solicitors

1 First Canadian Place

100 King Street West, Suite 1600

Toronto, ON M5X 1G5

Fax: (416) 862-7661

**Thomas Gertner (LSO# 67756S)**

Tel: (416) 369-4618

Email: thomas.gertner@gowlingwlg.com

*Lawyer for the Applicant*

**TO:           The Attached Service List.**

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**SERVICE LIST**

---

**TO: HIGHYON DEVELOPMENT NO. 118 LP**

c/o Roger Bing Pu  
350 Highway 7 East, Suite 310  
Richmond Hill, ON, L4B 3N2

Tel: (905)597-7702 Ext 200  
E-Mail: [Roger.pu@highyon.com](mailto:Roger.pu@highyon.com)

**AND TO: HIGHYON GP NO. 118 CORP.**

c/o Roger Bing Pu  
350 Highway 7 East, Suite 310  
Richmond Hill, ON, L4B 3N2

Tel: (905) 597-7702 Ext 200  
E-Mail: [Roger.pu@highyon.com](mailto:Roger.pu@highyon.com)

**AND TO: HENRY K. HUI & ASSOCIATES**

350 Highway #7 East, Suite 301  
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L4B 3N2

**Henry K. Hui**  
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*Transactional Counsel to the Respondents*

**AND TO: ROGER BING PU**

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Richmond Hill, ON, L4B 3N2

Tel: (905)597-7702 Ext 200  
E-Mail: [Roger.pu@highyon.com](mailto:Roger.pu@highyon.com)

*Guarantor*

**AND TO: RSM CANADA LIMITED**  
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Toronto, ON, M5H 4C7

**Daniel Weisz**  
Tel: (416) 646-8778  
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*Proposed Receiver*

**AND TO: PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**  
155 Wellington St. W., 35th Floor  
Toronto, ON M5V 3H1

**Jeffrey Larry**  
Tel: 416.646.4300  
Fax: 416.646.4301  
Email: [jeff.larry@paliareroland.com](mailto:jeff.larry@paliareroland.com)

*Counsel to the Proposed Receiver*

**AND TO: GEORGE NAIM JADA**  
626 Elgin Mills Rd. West  
Richmond Hill, ON, L4C 4M2

*Second Mortgagee*

**AND TO: DEPARTMENT OF JUSTICE CANADA**  
Ontario Regional Office  
120 Adelaide Street West, Suite 400  
Toronto, Ontario  
M5H 1T1

Diane Winters  
Tel: 416-973-3172  
Email: [diane.winters@justice.gc.ca](mailto:diane.winters@justice.gc.ca)

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## INDEX

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**TAB 1**



Court File No. CV-  
CV-20-00637687-00CL

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

**BETWEEN:**

**VECTOR FINANCIAL SERVICES LIMITED**

**Applicant**

**- and -**



**HIGHYON DEVELOPMENT NO. 118 LP and HIGHYON GP NO. 118 CORP.**

**Respondents**

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended**

**NOTICE OF APPLICATION**

**TO THE RESPONDENT:**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the Applicant. The claim made by the Applicant is set out on the following pages.

**THIS APPLICATION** will come on for a hearing on March 20, 2020 at 10:00 a.m., or as soon thereafter as the application can be heard, at the Courthouse located at 330 University Avenue, Toronto.

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

**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

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

Date: March 9, 2020

Issued by  **Anita Stanojevic**  
Registrar, Superior Court of Justice  
Local Registrar

Address of Court Office:  
330 University Avenue  
Toronto, Ontario, Canada

**TO: THE SERVICE LIST**

1. **THE APPLICANT, MAKES APPLICATION FOR, *inter alia*:**

- (a) An Order substantially in the form of Order attached at Tab 3 of the Application Record appointing RSM Canada Limited (“**RSM**”) as receiver (in such capacity, the “**Receiver**”), without security, of the lands and premises municipally known as 9113 & 9125 Bathurst Street in Richmond Hill, Ontario (collectively, the “**Mortgaged Lands**”) pursuant to Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1986, c B-3, as amended (the “**BIA**”) and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C43, as amended (the “**CJA**”); and
- (b) Such further and other relief as may be just and equitable.

2. **THE GROUNDS FOR THE APPLICATION ARE:**

- (a) Highyon Development No. 118 LP (“**Highyon LP**”) is a real estate holding vehicle. Its sole significant asset is the Mortgaged Lands;
- (b) Highyon LP acquired the Mortgage Lands in order to build and develop a series of townhouses (the “**Development**”);
- (c) Construction has not begun on the Development in any material fashion;
- (d) On September 15, 2017, Vector Financial Services Limited (“**Vector**”), as lender, and *inter alios*, Highyon LP, as borrower entered into a commitment letter (the “**Commitment Letter**”), pursuant to which Vector agreed to advance the principal amount of \$5,550,000 to Highyon LP;

- (e) Pursuant to the Commitment Letter, Highyon LP provided Vector with a first charge/mortgage against the Mortgaged Lands in the principal amount of \$5,550,000 (the “**Vector Charge / Mortgage**”) and a general security agreement in respect of all of the personal property of Highyon LP (the “**GSA**”);
- (f) The original maturity date under the Commitment Letter was May 10, 2019;
- (g) The parties subsequently agreed to extend the maturity date under the Commitment Letter until no later than November 10, 2019 pursuant to an amendment and extension agreement dated as of April 3, 2019;
- (h) At / or around late October of 2019, Highyon LP requested a further extension of the maturity date under the Commitment Letter;
- (i) Vector would not agree to a further formal extension but agreed to “overhold” the loan on a month-to-month basis for a period of up to six (6) months subject to, among other things, all monthly interest payments during the overhold period being paid when due (the “**Overhold Agreement**”);
- (j) In light of continuous breaches by Highyon LP of the Overhold Agreement, Vector issued a formal demand letter on February 20, 2020 demanding repayment of all amounts owing under the Commitment Letter;
- (k) The statutory notice period provided for under the BIA and outlined in the Demand Letter has expired;

- (l) Under the terms and conditions of each of the Vector Charge / Mortgage and the GSA, Highyon LP agreed that Vector would have the ability to appoint a receiver over the Mortgaged Lands should Highyon fail to repay Vector any amounts when due;
- (m) It is just and convenient, at this time, for the Court to appoint a receiver over the Mortgaged Lands;
- (n) Those other grounds set forth in the Affidavit of Noah Mintz sworn March 9, 2020 (the "**Mintz Affidavit**");
- (o) The provisions of the BIA, including Section 243;
  - (a) Section 101 of the CJA;
  - (b) Rules 1.04, 3.02, 16.08, and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, c. C.43; and
  - (c) Such further and other grounds as counsel may advise and this Honourable Court permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Application:

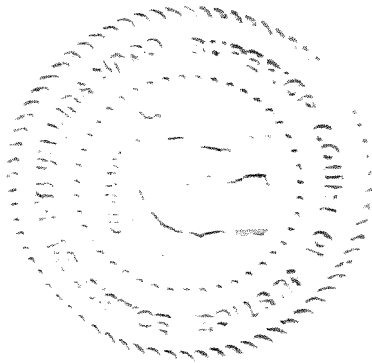
- (a) The Mintz Affidavit and the exhibits thereto; and
- (b) Such further material as counsel may advise and this Honourable Court may permit.

Date: March 9, 2020

**GOWLING WLG (CANADA) LLP**  
Barrister and Solicitors  
Suite 1600, First Canadian Place  
100 King Street West, Toronto, ON M5X 1G5

**Thomas Gertner (LSO# 67756S)**  
Tel: (416) 369-4618  
Email: [thomas.gertner@gowlingwlg.com](mailto:thomas.gertner@gowlingwlg.com)

**Solicitors for the Applicant**



**VECTOR FINANCIAL SERVICES LIMITED**

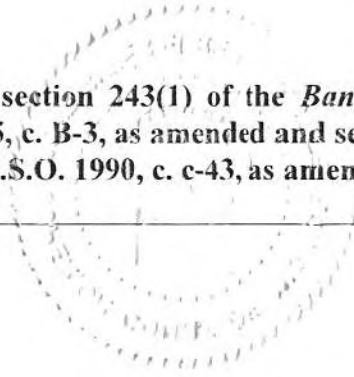
- and -

**HIGHYON DEVELOPMENT NO. 118 LP and  
HIGHYON GP NO. 118 CORP.**

Applicant

Respondents

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended**



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

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF APPLICATION**

**GOWLING WLG (CANADA) LLP**

Barristers & Solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
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Solicitors for the Applicant

**TAB 2**



Court File No. CV-20-0063787-00CL

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

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

HIGHYON DEVELOPMENT NO. 118 LP and HIGHYON GP NO. 118 CORP.

Respondents

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended**

**AFFIDAVIT OF NOAH MINTZ**

**(Sworn March 9, 2020)**

I, **Noah Mintz** of the city of Toronto, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the managing director of the Applicant, Vector Financial Services Limited (“**Vector**”). As a result, I have personal knowledge of the matters to which I hereinafter depose save and except where I refer to matters based on information and belief, in which case I verily believe that information to be true. Where the information set out in this affidavit is based upon information that I have received from others, I have stated the source of that information and believe it to be true.

2. This affidavit is sworn in support of an application by Vector to the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) for an Order (the “**Appointment Order**”) appointing RSM Canada Limited (“**RSM**”) as receiver ( in such capacity, the “**Receiver**”), without security, of the lands and premises municipally known as 9113 & 9125 Bathurst Street in Richmond Hill, Ontario (collectively, the “**Mortgaged Lands**”) pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1986, c B-3 (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C43.

3. Highyon Development No. 118 LP (“**Highyon LP**”) is the owner of the Mortgaged Lands. Highyon GP No. 118 Corp. (“**Highyon GP**” together with Highyon LP, the “**Highyon Entities**”) is the general partner of Highyon LP.

4. As will be further explored below, Vector is seeking the Appointment Order on the basis, among other things, that:

- (a) Highyon LP is in default of its obligations to Vector under the Commitment Letter and the Overhold Agreement (each as defined below);
- (b) The maturity date under the Commitment Letter (as extended) expired on November 10, 2019; and
- (c) The Highyon Entities have not identified to Vector any source of liquidity available to repay their indebtedness to Vector in whole or in part.

## **I. DESCRIPTION OF THE PARTIES**

5. Vector is a private mortgage broker, lender, and administrator in the business of originating and administering mortgage loans in Ontario. Mortgage loans originated by Vector are funded by a combination of outside investors and by its existing shareholder group (and related companies).

6. Highyon LP is a limited partnership formed pursuant to the *Limited Partnerships Act*, R.S.O. 1990. I understand that the limited partners in Highyon LP are a number of individual investors and in certain cases their respective holding companies. Attached hereto and marked as **Exhibit “A”** is a true copy of a limited partnership report obtained from the provincial ministry in respect of Highyon LP, with a file currency date of February 26, 2020.

7. I have been advised by Gowling WLG Canada LLP (“**Gowling WLG**”), counsel to Vector, that Highyon GP No. 118 Corp. (“**Highyon GP**”) is a privately owned corporation incorporated pursuant to the *Business Corporations Act* (Ontario) R.S.O. 1990, c. B.16.

8. According to a corporate profile report (the “**Corporate Profile Report**”) obtained from the provincial ministry with a file currency date of February 26, 2020, the registered and head office of Highyon GP is 350 Highway 7 East, Suite 310 Richmond Hill, Ontario, Canada and Roger Bing Pu (“**Mr. Pu**”) is the sole director and officer of Highyon GP. Attached hereto and marked as **Exhibit “B”** is a true copy of the Corporate Profile Report.

## **II. DESCRIPTION OF THE BUSINESS OF THE HIGHYON ENTITIES**

9. Highyon LP is a real estate holding vehicle. Its sole significant asset is the Mortgaged Lands.

10. Highyon LP acquired the Mortgage Lands, in order to build and develop a series of townhouses (the “**Development**”). As of the date of the Commitment Letter, Highyon LP intended to build nineteen to twenty two (19-22) townhomes on the Mortgaged Lands with a gross floor area of approximately thirty nine thousand (39,000) square feet.

11. It is my understanding that as of the date hereof, construction has not begun on the Development in any material fashion.

12. There is currently one (1) detached residential home located on the Mortgaged Lands (the “**Residential Home**”) which was to be demolished as part of the Development. To the best of my knowledge, the Residential Home is vacant.

### **III. THE COMMITMENT LETTER**

13. On September 15, 2017, Vector, as lender, Highyon LP, as borrower, and Mr. Pu, as guarantor, executed a commitment letter (the “**Commitment Letter**”), pursuant to which Vector agreed to advance the principal amount of \$5,550,000 to Highyon. Attached hereto and marked as **Exhibit “C”** is a true copy of the Commitment Letter and the “loan proposal” referred to in the Commitment Letter.

14. As security for its indebtedness and liability to Vector pursuant to the Commitment Letter, among other things, Highyon LP provided Vector with the following security:

- (a) a first charge/mortgage against the Mortgaged Lands in the principal amount of \$5,550,000 (the “**Vector Charge / Mortgage**”); and

- (b) a general security agreement in respect of all of the personal property of Highyon LP dated as of September 29, 2017 (the “**GSA**” together with the Vector Charge/Mortgage, the “**Security**”).

Attached hereto and marked as **Exhibits “D”** and “**E**” respectively are true copies of the Vector Charge/Mortgage and the GSA.

#### REGISTRATIONS AGAINST THE MORTGAGED LANDS

15. Prior to advancing funds under the Commitment Letter, Vector registered the Vector Charge / Mortgage with the Land Registry Office in Ontario. Attached hereto and marked as **Exhibit “F”** is a true copy of title searches obtained against the Mortgaged Lands with a file currency date of February 26, 2020 (the “**Title Searches**”).

16. I have been advised by Gowling WLG, that the Title Searches confirm that the Vector Charge / Mortgage is a first ranking charge / mortgage against the Mortgaged Lands.

17. The Title Searches additionally indicate that there is a subordinate second ranking charge / mortgage against the Mortgaged Lands in the amount of \$425,000 in favour of George Naim Jada.

#### REGISTRATIONS UNDER THE PPSA

18. Vector has also registered its security interest in Highyon LP’s personal property with the provincial registry maintained under the *Personal Property Security Act* (Ontario) R.S.O. 1990, c. P.10 (the “**PPSA**”). Attached hereto and marked as **Exhibit “G”** are true copies of Ontario PPSA

searches against the Highyon Entities with a file currency date of February 25, 2020 (the “**PPSA Search**”).

19. I have been further advised by Gowling WLG, that: (i) the PPSA Search confirms that Vector has a first ranking security interest over all of the personal property of Highyon LP in respect of the Mortgaged Lands; and (ii) there are no registrations under the PPSA against the Highyon Entities other than those registrations in favour of Vector.

#### **IV. FINANCIAL DIFFICULTIES OF THE HIGHYON ENTITIES**

20. When the parties entered into the Commitment Letter, Vector and Highyon LP originally contemplated that the Indebtedness would be repayable by no later than May 10, 2019 (the “**Original Maturity Date**”). In advance of the Original Maturity Date, Highyon LP requested that Vector extend the maturity date under the Commitment Letter and thereby delay its obligation to pay all remaining outstanding principal and interest.

21. Vector subsequently agreed to extend the maturity date until no later than November 10, 2019 (the “**Extended Maturity Date**”) pursuant to an amendment and extension agreement dated as of April 3, 2019 (the “**Amendment and Extension Agreement**”). As part of the Amendment and Extension Agreement, Highyon LP agreed to pay Vector an extension fee in the amount of \$126,000 on the Extended Maturity Date (the “**Extension Fee**”). Attached hereto and marked as **Exhibit “H”** is a true copy of the Amendment and Extension Agreement.

22. The Amendment and Extension Agreement provided that if Highyon LP failed to repay all obligations owing to Vector on the Extended Maturity Date as required, the interest rate applicable under the Commitment Letter would increase by 2.75% (the “**Overholding Rate**”).

23. At / or around late October of 2019, and in advance of the Extended Maturity Date, Highyon LP requested a further extension of the maturity date under the Commitment Letter. Although Vector was unwilling to formally extend the maturity date, Vector offered to “overhold” the loan on a month-to-month basis for a period of up to six (6) months at the Overholding Rate set out in the Amendment and Extension Agreement, on the condition that:

- (a) all monthly interest payments during the overhold period were paid when due; and
- (b) the Extension Fee was paid on the Extended Maturity Date (the “**Overhold Agreement**”).

Attached hereto and marked as **Exhibit “I”** is a true copy of email correspondence between myself and Mr. Pu dated between November 3, 2019 and November 6, 2019, setting out the terms of the Overhold Agreement.

24. Vector offered to enter into the Overhold Agreement strictly as an accommodation to Highyon LP and in order to provide Highyon LP with time to obtain takeout financing.

25. Just over (2) months after having entered into the Overhold Agreement, Highyon LP breached the Overhold Agreement when it failed to remit a monthly interest payment to Vector when required on January 10, 2020 (the **January 2020 Payment Default**”). Attached hereto and marked as **Exhibit “J”** is a true copy of a default notice issued by Vector to the Highyon Entities dated as of January 16, 2020, providing the Highyon Entities formal notice of the January 2020 Payment Default.

26. Although Highyon LP subsequently remitted this interest payment at / or around January 21, 2020, it shortly thereafter failed to remit its interest payment for the month of February when

required on February 10, 2020 in further breach of the Overhold Agreement (the **February 2020 Payment Default**). Attached hereto and marked as **Exhibit “K”** is a true copy of a default notice issued by Vector to the Highyon Entities dated as of February 16, 2020, providing the Highyon Entities formal notice of the February 2020 Payment Default.

27. In light of the continuous breaches by Highyon LP of the Overhold Agreement, Vector issued a formal demand letter on February 20, 2020 demanding repayment of all amounts owing under the Commitment Letter by no later than March 2, 2020 (the **“Demand Letter”**). The Demand Letter additionally enclosed a notice of intention to enforce security pursuant to section 244 of the BIA (the **“NITES”**). Attached hereto and marked as **Exhibit “L”** is a true copy of the Demand Letter and the NITES.

28. Neither Mr. Pu nor anyone else at the Highyon Entities has contacted myself or anyone else at Vector since the Demand Letter and the NITES were issued.

29. At / or around February 27, 2020, Highyon LP remitted its past-due monthly interest payment for the month of February. By letter dated as of February 28, 2020, Vector advised Highyon LP that notwithstanding Highyon LP’s remittance of this payment, it was reserving its right not to retract the Demand Letter or the NITES (the **“February 28 Reservation of Rights Letter”**). Attached hereto and marked as **Exhibit “M”** is a true copy of the February 28 Reservation of Rights Letter.

30. Subsequent to the issuance of the February 28 Reservation of Rights Letter, Vector’s chief operating officer, Mitchell Oelbaum contacted Mr. Pu to suggest that Vector may be willing to forbear on its enforcement rights, subject to acceptable forbearance arrangements being put in place (the **“Forbearance Offer”**). These terms would include, among other things, the provision



of an interest reserve, as a hedge to ensure interest would be kept current for at least part of the forbearance period. Despite the Forbearance Offer, which was conditional on a response by no later than March 2, 2020, neither Mr. Pu nor anyone else on behalf of Highyon LP has contacted Vector to discuss entering into forbearance arrangements.

**V. CONCLUSION AND NEED FOR THE APPOINTMENT OF A RECEIVER**

31. As of the date hereof, Highyon LP is indebted to Vector in the approximate amount of \$5,731,451.58, together with interest, fees, and other chargeable costs continuing to accrue, including legal fees and disbursements (collectively, the “**Indebtedness**”).

32. As set out above, the Extended Maturity Date under the Commitment Letter expired on November 10, 2019.

33. Although Vector agreed to overhold its mortgage past the Extended Maturity Date at the Overholding Rate pursuant to the Overhold Agreement, Highyon LP has breached the Overhold Agreement and all Indebtedness owing by Highyon LP to Vector is due and payable.

34. The statutory notice period provided for under the BIA and outlined in the Demand Letter and the NITES has expired.

35. Under the terms and conditions of each of the Vector Charge / Mortgage and the GSA, Highyon LP agreed that Vector would have the ability to appoint a receiver over the Mortgaged Lands should Highyon LP fail to repay Vector any amounts when due under the Commitment Letter.

36. I am not aware of the Highyon Entities having any sources of funding available to them, sufficient to satisfy the Indebtedness.


37. In light of, among other things, the Highyon Entities failure to pursue the Forbearance Offer and the Highyon Entities clear disregard for the Overhold Agreement, Vector has lost faith in the ability of the Highyon Entities to repay the Indebtedness in either the near or long term.

38. It is my view that the appointment of a receiver over the Mortgaged Lands will create a transparent marketing process for the sale of the Mortgage Lands and a clear way forward for the repayment of amounts owed to the creditors of the Highyon Entities in respect of the Mortgaged Lands, including Vector.

39. If this Honourable Court sees fit to make such an appointment, RSM has consented to act as Court-appointed receiver of the Mortgaged Lands. RSM is a licensed insolvency trustee and has significant experience in mandates of this nature. Attached hereto and marked as **Exhibit "N"** is a copy of RSM's Consent to Act as receiver.

40. This Affidavit is sworn in support of Vector's Application for the Appointment Order and for no other or improper purpose.

**SWORN** before me at the City of Toronto,  
in the Province of Ontario this 9<sup>th</sup> day  
of March, 2020

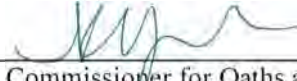
  
\_\_\_\_\_  
Commissioner for taking affidavits, etc.

  
\_\_\_\_\_  
NOAH MINTZ

**Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.**

**TAB A**

**THIS IS EXHIBIT "A"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

**Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.**

Request ID: 024262734  
Transaction ID: 74774752  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/26  
Time Report Produced: 14:48:31  
Page: 1

# LIMITED PARTNERSHIPS REPORT

**Firm name registered under the *Limited Partnerships Act***

HIGHYON DEVELOPMENT NO. 118 LP

**Business Identification Number**

270833999

**Business Type**

LIMITED PARTNERSHIP

---

**Mailing Address**

350 HIGHWAY 7 EAST

No. 310  
RICHMOND HILL  
ONTARIO  
CANADA, L4B 3N2

**Address of Principal Place of Business in Ontario**

350 HIGHWAY 7 EAST

No. 310  
RICHMOND HILL  
ONTARIO  
CANADA, L4B 3N2

**General Nature of Business**

REAL ESTATE DEVELOPMENT

**Jurisdiction of Formation**

ONTARIO

**Declaration Date**

2017/08/01

**Expiry Date**

2022/07/31

**Renewal Date**

NOT APPLICABLE

**Change Date(s)**

2017/09/19

**Last Document Filed**

CHANGE

**Dissolution/Withdrawal Date**

NOT APPLICABLE

**Last Document Filed Date**

2017/09/19

**Current Partnership Business Names Exist:**

NO

**Expired Partnership Business Names Exist:**

NO

**Former Names**

NOT APPLICABLE

**Date of Name Change**

Request ID: 024262734  
Transaction ID: 74774752  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/26  
Time Report Produced: 14:48:31  
Page: 2

# LIMITED PARTNERSHIPS REPORT

**Firm name registered under the *Limited Partnerships Act***

HIGHYON DEVELOPMENT NO. 118 LP

**Business Identification Number**

270833999

**Business Type**

LIMITED PARTNERSHIP

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## Information Regarding General Partner(s)

**Name (Individual/Corporation/Other)**

HIGHYON GP NO.118 CORP.

Corporate Number: 2596965

**Address**

350 HIGHWAY 7 EAST

No. 310  
RICHMOND HILL  
ONTARIO  
CANADA, L4B 3N2

**Name of Signatory**

PU, BING

**Power of Attorney**

NO

Former Limited Partnership Names will only be displayed for Declarations registered on or after April 1, 1994.

This Report sets out the most recent information registered on or after April 1, 1994 and recorded in the Ontario Business Information System as of the last business day.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

**TAB B**

**THIS IS EXHIBIT "B"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

**Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.**



Request ID: 024262738  
Transaction ID: 74774762  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/26  
Time Report Produced: 14:46:29  
Page: 1

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Incorporation Date</b>
2596965	HIGHYON GP NO.118 CORP.	2017/09/14
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>		<b>Date Amalgamated</b>
350 HIGHWAY 7 EAST		NOT APPLICABLE
<b>Suite # 310</b>		<b>Amalgamation Ind.</b>
RICHMOND HILL		NOT APPLICABLE
ONTARIO		<b>New Amal. Number</b>
CANADA L4B 3N2		NOT APPLICABLE
		<b>Notice Date</b>
		NOT APPLICABLE
<b>Mailing Address</b>		<b>Letter Date</b>
NOT AVAILABLE		NOT APPLICABLE
		<b>Revival Date</b>
		NOT APPLICABLE
		<b>Continuation Date</b>
		NOT APPLICABLE
		<b>Transferred Out Date</b>
		NOT APPLICABLE
		<b>Cancel/Inactive Date</b>
		NOT APPLICABLE
		<b>EP Licence Eff.Date</b>
		NOT APPLICABLE
		<b>EP Licence Term.Date</b>
		NOT APPLICABLE
	<b>Number of Directors</b>	<b>Date Commenced</b>
	<b>Minimum</b>	<b>in Ontario</b>
	<b>Maximum</b>	
	00001	NOT APPLICABLE
	00010	
<b>Activity Classification</b>		<b>Date Ceased</b>
NOT AVAILABLE		<b>in Ontario</b>
		NOT APPLICABLE

Request ID: 024262738  
Transaction ID: 74774762  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/26  
Time Report Produced: 14:46:29  
Page: 2

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2596965

**Corporation Name**

HIGHYON GP NO.118 CORP.

**Corporate Name History**

HIGHYON GP NO.118 CORP.

**Effective Date**

2017/09/14

**Current Business Name(s) Exist:**

NO

**Expired Business Name(s) Exist:**

NO

**Administrator:**

**Name (Individual / Corporation)**

BING

PU

**Address**

350 HIGHWAY 7 EAST

Suite # 310  
RICHMOND HILL  
ONTARIO  
CANADA L4B 3N2

**Date Began**

2017/09/14

**First Director**

YES

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

Y

Request ID: 024262738  
Transaction ID: 74774762  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/26  
Time Report Produced: 14:46:29  
Page: 3

# CORPORATION PROFILE REPORT

**Ontario Corp Number**

2596965

**Corporation Name**

HIGHYON GP NO.118 CORP.

**Last Document Recorded**

<b>Act/Code</b>	<b>Description</b>	<b>Form</b>	<b>Date</b>
BCA	ARTICLES OF INCORPORATION	1	2017/09/14 (ELECTRONIC FILING)

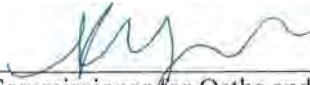
THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

**TAB C**

**THIS IS EXHIBIT "C"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

**Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.**



**Vector Financial**  
SERVICES LIMITED

Brokerage Licence #10160, Administrator Licence #11205

**COMMITMENT LETTER**

September 15, 2017

Highyon Development No. 118 LP  
c/o MCAP Financial Corporation  
200 King Street West, Suite 400  
Toronto, Ontario M5H 3T4

**Attention: Mr. Peter Juretic & Mr. Roger Bing Pu**

Dear Sirs,

Re: Vector Financial Services Limited (the “**Lender**”) First (1st) Mortgage Financing  
(the “**Loan**”) on 9113 & 9125 Bathurst Street in Richmond Hill, Ontario (the “**Properties**”) to  
Stateview Homes (King’s Landing) Inc. (the “**Borrower**”) - Our Ref: 17-50

---

This letter confirms that subject to the amendments contained herein, our clients represented by Vector Financial Services Limited (“**VFSL**”) are prepared to approve your loan on the terms set out in this Commitment Letter (“**Commitment**”) and read in conjunction with the Loan Proposal (“**Proposal**”) dated **August 4, 2017**, as amended and accepted **August 16, 2017**. This commitment, however, is subject to receipt and satisfactory review by the Lender of the required deliverables as more particularly described in the Proposal and the terms contained herein.

The following revisions are made to the Proposal:

- Section 4: The Loan Amount shall be adjusted to Five Million, Five Hundred and Fifty Thousand Dollars (\$5,550,000).
- Section 5b: The Proposed development of the Property will include the construction of 19-22 townhomes with a Gross Floor Area of approximately 39,000 square feet (the “**Project**”).

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25 Imperial Street, Suite 500, Toronto, Ontario M5P 1B9  
Phone: 416-483-8018 Fax: 416-483-9763  
[www.vectorfinancialservices.com](http://www.vectorfinancialservices.com)

Section 15c: Sources and Uses of Funds:

	<b>Total</b>
<b>Uses of Funds:</b>	
Land Acquisition	\$8,058,000
Lender Fee	\$97,125
Broker Fee	\$41,625
LTT	\$188,000
Interest Reserve	\$265,000
Legals & Closing Costs (Est)	\$20,250
<b>TOTAL</b>	<b>\$8,670,000</b>
<b>Sources of Funds:</b>	
Vector Loan	\$5,550,000
Borrower's Equity	\$3,120,000
<b>TOTAL</b>	<b>\$8,670,000</b>

Section 7: The Scheduled Closing Date shall be revised to September 28, 2017

Section 11: For the period from and including the Scheduled Closing Date to and including the day immediately preceding the Step-Up Date, the Interest Rate shall be adjusted to the greater of: (i) 9.25% per annum, and (ii) the Prime Rate plus 6.30%

Section 14: The Loan is closed and not open for prepayment in whole or in part prior to the 10th day of the Tenth (10<sup>th</sup>) month after the Interest Adjustment Date.

When not in default and upon giving to the Lender not less than thirty (30) days prior written notice of the Borrower's election and intended date to do so, the Borrower may at any time on or after the 10th day of the tenth (10<sup>th</sup>) month after the Interest Adjustment Date prepay the whole (but not part) of the then outstanding Principal Amount plus (i) all accrued and unpaid interest and compound interest calculated to and including the date of prepayment and (ii), all costs and expenses then due payable to the Lender under the Loan Documents. From and after the giving of any such notice, the date of such prepayment so selected by the Borrower shall become the Step-Up Date. In the event that any such notice is given by the Borrower, and if payment is not made in accordance with such notice, the entire Loan indebtedness shall become due and payable forthwith at the option of and upon demand by the Lender, together with an additional three (3) months interest in accordance with the Mortgages Act (Ontario) if applicable.

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Section 16: The Commitment Fee shall be adjusted to \$97,125

- b) The balance of the Commitment Fee in the amount of \$62,125, which shall be deemed earned after issuance by the Lender of the Commitment on terms and conditions which are not materially different from those set out in this Loan Proposal (and it is agreed that a change of the Expiry Date shall not be material), whether or not each Borrower Entity accepts and executes the Commitment, and which amount shall be payable at the time of and deducted from the initial Loan advance or on the Expiry Date, whichever shall first occur.

The Brokerage Fees payable to MCAP Financial Corporation shall be adjusted to \$41,625.

Section 17: ADVANCES:

On the Closing Date, the full Loan Amount of \$5,550,000 (the “Initial Advance”) will be advanced to or for the benefit of the Borrower as follows:

- a) The amount of \$62,125 will be paid to the Lender on account of the outstanding balance of the Commitment Fee;
- b) The amount of \$265,000 will be retained by the Lender or the Lender’s Solicitors on account of an interest reserve (the “Interest Reserve”) to be used to fund the last six (6) months of interest coming due under the Loan; and

The Borrower shall acknowledge that the Interest Reserve shall be deemed to have been fully advanced by the Lender to the Borrower and shall bear interest from and after the date of the Initial Advance at the rate and upon the terms set out in the Loan Documents. The Interest Reserve, together with any interest earned thereon, shall be pledged by the Borrower to the Lender as security for the Loan. In the event the Loan is in default, the Lender shall be entitled to utilize and apply, as determined by the Lender in its sole discretion, all, or any part of the Interest Reserve toward payment of principal, interest, costs, and other monies owing under the Loan.

- c) The balance in the amount of \$5,222,875 will be deposited with the Lender’s Solicitors and will be applied to or for the benefit of the Borrower to pay for closing costs (including brokerage fees and legal costs), acquisition of the Property, and other costs pursuant to the provisions set out herein.

Section 18a: a Charge/Mortgage of the Property in the principal amount of \$5,550,000 and securing all Loan indebtedness;

**Commitment Expiry:** **September 25, 2017.** At the option of the Lender, this loan may be cancelled in the event that the representations of the Borrowers are found



to be inaccurate, or if title to the security is not satisfactory, or if funds are not advanced, due to no fault of the Lender, by the above- mentioned date.

**Legal Fees:**

Please note that the legal work on our behalf will be done by:

**Jonathan Freeman**  
Cassels, Brock & Blackwell LLP  
2100 Scotia Plaza  
40 King Street West  
Toronto, Ontario M5H 3C2

Telephone: (416) 860-2927

All legal costs & fees incurred, in connection with this mortgage shall be paid by Borrower. All questions should be directed to **Mr. Freeman**. An estimate of his fees of **\$20,000** plus disbursements & HST has been provided. Title insurance (required), fees, disbursements and HST will be charged separately.

**Mortgage:**

The terms and conditions of the mortgage loan commitment shall continue to apply notwithstanding the preparation and execution and registration of the mortgage and other documents. In case of any inconsistency or conflict between any provisions of this Commitment and Proposal and any provisions of the charge/mortgage, the Commitment and Proposal shall prevail.

**Title and Legal Requirements:**

The advance of funds shall be made subject to the Lender and its solicitor being satisfied with title to all property secured and all legal aspects, required of the transaction (the “**Security**”).

**Solicitors and Documentation:**

All legal matters and documentation shall be satisfactory to the Lender’s solicitors, whose fees and disbursements the Borrower agrees to pay whether or not this transaction is completed as contemplated herein.

**Standard Charge Terms:**

The Borrower acknowledges and agrees that the Mortgage Document may incorporate by reference such standard charge terms or schedule and may incorporate such additional provisions as are contemplated by the Proposal and Commitment, and/or as may be considered required by the Lender or its solicitor.

**Covenant to Give Notice of Casualty**

- 
- or Legal Claim:** The Borrower hereby covenants and agrees that it will give immediate notice in writing to the Lender of any damage to or legal claim against the Security, or of any conveyance, transfer, or change of ownership or control or possession of the Security or any other change in viability of the strength of the Borrower or any Guarantor.
- Mortgage Statements:** The Borrower shall pay for each Mortgage Statement prepared for and provided by the Lender, on request, the current fee (see Schedule A attached) for the preparation and providing of such statement.
- Additional Fees and Charges:** The Borrower acknowledges that a retainer of **\$6,500** shall be deducted from the advance and the amount by which the retainer exceeds the actual costs and charges will be refunded to the Borrower within 30 days of receipt of all corresponding invoices.
- Right of Inspection:** The Borrower shall permit the Lender, or his agent or agents, at all reasonable times, to make investigation or examination concerning the performance by the Borrower of its obligations under the Mortgage to have access to any and all of the buildings and improvements forming part of the mortgaged property for the purpose of inspecting or protecting the same as well as performing an environmental assessment. The Borrower shall take all reasonable steps, including legal proceedings, to protect its own right, title, and interest in any of the mortgaged property and to enable the Lender to defend the interest of the Lender therein.
- Subsequent Encumbrances:** Borrowers may not place subsequent encumbrances on the subject property other than those agreed to in the Proposal without written consent of the Lender otherwise, and at the option of the Lender, the Loan will become due and payable in full.
- Non-Transferable:** It is agreed and understood that in the event of a sale, conveyance, lease or transfer of the title of the Property to a purchaser, grantee, transferee, lender, or lessee not approved in writing by the Lender, then at the option of the Lender, all monies secured under the mortgage with accrued interest shall forthwith become due and payable and the Borrower's and Guarantor's liability hereunder shall remain in full force and effect until all monies owing to the Lender in connection with this indebtedness is paid in full.
- Realty Taxes:** Realty Taxes are to be paid to the date of the advance and must be kept current during the term of the mortgage.

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**Zoning:** The use of the land shall comply with all relevant laws, and shall be in accordance with the provisions of all agreements with governmental (Municipal, Provincial and Federal Statutes) or other authorities providing services to the property, throughout the term of the mortgage.

**Survey:** We require an original up to date survey of the land and premises prepared by a qualified Ontario Land Surveyor under seal, showing no encroachments, and showing all improvements on the mortgage property constructed in compliance with the local zoning by-laws or Title Insurance.

**Pre-authorized Chequing Plan:** All payments made under this Charge by the Borrower shall be made by a pre-authorized cheque payment plan, electronically debiting the Borrower's account ("EFT") as approved by the Lender. The Borrower shall complete all forms required by the Lender in this regard and the Lender shall not be obligated to accept any payment other than payment made by EFT. Failure to make all payments by EFT shall be considered an act of default within the meaning of this Charge and the Lender shall at its option, be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary.

**N.S.F. Cheque and/or failed Debit under an EFT Plan:** In the event that any of the Borrower's cheques or debits under an EFT Plan are not honoured when presented or processed for payment, the Borrower shall pay to the Lender, for each such occasion, the sum per Schedule A as a liquidated amount to cover the Lender's administrative costs and not as a penalty and each sum shall be a charge upon the lands and shall bear interest at the rate set out in the within mortgage.

**Property Insurance:** Each Loan requires property insurance coverage acceptable to the Lender and its consultant. Such policy must contain standard mortgage clauses and must indicate the interest of the Lender as first Lender and Loss payee.

Should improvements or buildings on the subject property be demolished with the Lender's consent, then only Liability Insurance may be required there-after subject to the Lender's insurance consultant's consent.

In the event that the Lender receives notice that the insurance coverage has or is about to be cancelled, the Lender shall have the right to place a new policy of insurance on the property without notice to the Borrower and add the cost thereof, together with an administrative charge of per Schedule A to the principal amount outstanding.

**Default:** Provided further that in the event there is any kind of default under this mortgage and a collection letter is issued by the Lender the Lender is entitled to a fee per Schedule A for each collection letter written, whether in connection with one or more defaults under the Charge.

**Commitment Cancellation:** This Commitment may be cancelled at the Lender's option if any of the conditions set out in the Proposal or set out herein are not complied with or if any of the requirements of the Lender's solicitors are not satisfactorily fulfilled by **October 5, 2017**.

**Other:** Borrowers acknowledge the fact that at the Lender's sole discretion the Mortgage may be assigned and/or hypothecated.

Upon a payout of the mortgage in which the Lender is in receipt of the funds due after 3:00 p.m. on any day, the Borrower agrees to pay interest up to and including, the next business day.

Borrowers acknowledge that parties related to the Lender may be advancing funds under the mortgage.

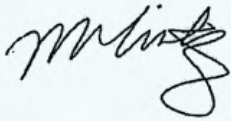
**Representation And Credit:** By acceptance of this Commitment the Borrower and Guarantor covenant that the representations and information submitted by them in connection with this Loan is full disclosure and is true and accurate. The Lender, in its sole discretion, must be satisfied that no material change in the Borrower's or Guarantor's credit standing has occurred prior to the first advance under the Loan. The Borrower and Guarantor hereby authorize the Lender to have credit checks performed.

**Acceptance Date:** This commitment is open for acceptance until **September 20, 2017**.

The Borrower acknowledges having executed a Statement of Mortgage and a copy (attached) has been delivered to the same.

Yours truly,

Highyon Development No. 118 LP  
Commitment Letter – 9113 & 9125, Richmond Hill, Ontario  
September 18, 2017



Noah Mintz  
Managing Director  
Lic. #: M08006173



Mitchell Oelbaum  
Chief Operating Officer  
Lic. #: M13001562

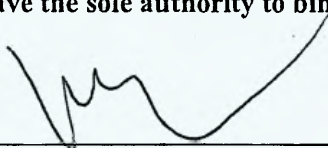
**ACCEPTANCE OF COMMITMENT LETTER**

ACCEPTED on the terms and conditions herein provided this      day of \_\_\_\_\_, 2017.

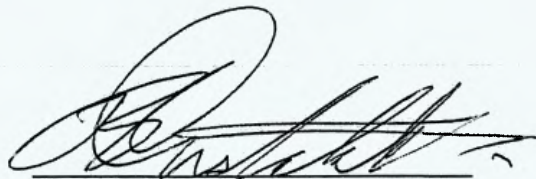
Highyon Development No. 118 LP. - As Borrower



Per:  
I have the sole authority to bind the corporation.



Mr. Roger Bing Pu - As Guarantor



Witness:

25 Imperial Street, Suite 500, Toronto, Ontario M5P 1B9  
Phone: 416-483-8018 Fax: 416-483-9763  
[www.vectorfinancialservices.com](http://www.vectorfinancialservices.com)







**Vector Financial**  
SERVICES LIMITED  
Brokerage Licence #10160, Administrator Licence #11205

## LOAN PROPOSAL

August 4, 2017

Highyon Development No. 118 LP  
c/o MCAP Financial Corporation  
200 King Street West, Suite 400  
Toronto, Ontario M5H 3T4

**Attention: Mr. Peter Juretic & Mr. Roger Bing Pu**

Dear Sirs,

Re: VECTOR FINANCIAL SERVICES LIMITED mortgage loan to Highyon Development No. 118 LP upon the security of all property and assets comprising 9113 & 9125 Bathurst Street in Richmond Hill, Ontario (the "Properties"). Vector Reference No. 17-50

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This Loan Proposal (this "Loan Proposal") will serve to express interest on behalf of the Lender (as defined herein), subject to receipt and satisfactory review by the Lender of all deliveries and information required herein including site visit, to arrange mortgage financing (the "Loan") for the Property (as defined herein), upon and subject to the terms and conditions set out herein.

**This Loan Proposal is not a commitment of the Lender to make the Loan, is subject to delivery by the Lender of a Commitment Letter (the "Commitment") and shall not be binding on the parties hereto except upon delivery and acceptance of the Commitment and except as expressly provided herein.**

1. **LENDER** (the "Lender" or "Vector"):  
Vector Financial Services Limited
2. **BORROWER** (individually and collectively, the "Borrower"):  
Highyon Development No. 118 LP
3. **GUARANTOR** (individually and collectively, the "Guarantor"):  
Mr. Roger Bing Pu for 100% of the Borrower's indebtedness to the Lender
4. **LOAN AMOUNT** (the "Loan Amount" or "Principal Amount"):  
SIX MILLION AND FIFTY THOUSAND DOLLARS (\$6,050,000)

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25 Imperial Street, Suite 500, Toronto, Ontario M5P 1B9  
Phone: 416-483-8018 Fax: 416-483-9763  
[www.vectorfinancialservices.com](http://www.vectorfinancialservices.com)

5. PURPOSE OF LOAN & EXIT:

- (a) The Loan will be used to finance the acquisition of the following real properties (individually and collectively, the “Property”, and which includes all related buildings, improvements, leases, rents, equipment, surveys, plans, development plans, agreements, permits and other personal property of every nature and kind):

Address	Legal Description	Zoning
9113 Bathurst Street, Richmond Hill, Ontario	PT LT 12 PL 1960 VAUGHAN AS IN R430908, EXCEPT PART 6 65R34243 TOWN OF RICHMOND HILL	RESIDENTIAL R3
9125 Bathurst Street, Richmond Hill, Ontario	PT LTS 12 & 12 PL 1960 (VGN) PTS 1 & 2 65R30010 EXCEPT PTS 6 & 7 65R34155 & EXCEPT PT 7 65R34243 AND SAVE AND EXCEPT PTS 2 & 3 ON 6535056 TOWN OF RICHMOND HILL	RESIDENTIAL R3

- (b) The proposed development of the Property will include the construction of 21 24-FT townhomes with a Gross Floor Area of approximately 46,200 SF square feet (the “Project”). The Borrower represents that a rezoning to allow for the proposed development is nearly complete.
- (c) Uses and Sources of Funds:

	Total
<b>Uses of Funds:</b>	
Land Acquisition	\$8,058,000
Lender Fee	\$121,000
Broker Fee	\$45,000
LTT	\$188,000
Interest Reserve	\$272,250
Legals & Closing Costs (Est)	\$15,750
<b>TOTAL</b>	<b>\$8,700,000</b>
<b>Sources of Funds:</b>	
Vector Loan	\$6,050,000
Borrower’s Equity	\$2,650,000
<b>TOTAL</b>	<b>\$8,700,000</b>



(d) The Loan shall be repaid out of the sale or refinancing of the Property.

6. **LOAN PRIORITY:**

Except as otherwise expressly provided herein, the Loan and all Loan security shall rank in **first priority** to or in respect of the interests of each Borrower, Beneficial Owner and Guarantor (individually and collectively, the **"Borrower Entity"**), all other mortgagees and all other persons having any interest in the Property.

7. **CLOSING:**

The actual date upon which the full advance or initial advance, as the case may be, of the Loan occurs is herein called the **"Initial Advance Date"**, the **"Closing Date"**, **"Closing"** or other similar reference. As required by the context, **"Closing"** also means the successful completion of the Loan and the full or initial advance thereunder as the case may be.

The Closing shall occur on September 6<sup>th</sup>, 2017 (Subject to change), unless, prior thereto, the Borrower and the Lender agree in writing (which may be evidenced by one or more emails from or between the Borrower and/or the Lender and/or their respective solicitors) that the Closing shall occur on some other date; and the date set out in this paragraph or such other date, as the case may be, is herein called the **"Scheduled Closing Date"**.

Each Borrower Entity acknowledges that the Loan will be syndicated by the Lender to one or more investors, who will provide to the Lender prior to the Scheduled Closing Date their respective shares of advances to be made under the Loan with the expectation that the Closing shall occur on the Scheduled Closing Date and that interest shall accrue from and after the Scheduled Closing Date. Each Borrower Entity acknowledges and agrees that interest shall accrue from and after the Scheduled Closing Date on the funds intended to be advanced on that date notwithstanding that, in order to comply with all of the terms and conditions of the Commitment, the actual Closing may not occur until after the Scheduled Closing Date.

The Closing shall take place not later than September 22, 2017 or such other date as established by the Commitment (the **"Expiry Date"**). Unless extended by an agreement in writing, this Loan Proposal and the Commitment shall terminate at 5:00 p.m. EST on the Expiry Date, and the Lender shall have no obligation to make the full or initial advance of the Loan after such time.

8. **TERM & MATURITY:**

All Loan indebtedness shall become due and repayable in full on the tenth (10th) day of the month which is 19 calendar months after the Interest Adjustment Date (the **"Maturity Date"**).

9. **INTEREST ADJUSTMENT DATE** (the **"Interest Adjustment Date"** or **"IAD"**)

The tenth (10th) day of the month next following the Closing Date.

10. **STEP-UP DATE** (the “**Step-Up Date**”):

The tenth (10th) day of the first (1st) calendar month immediately prior to the Maturity Date, or such earlier date as may be established pursuant to the Borrower’s election for prepayment pursuant to Section 15 hereof.

11. **INTEREST RATE** (the “**Interest Rate**”):

For the period from and including the Scheduled Closing Date to and including the day immediately preceding the Step-Up Date, the greater of: (i) 9.00% per annum, and (ii) the Prime Rate plus 6.05%; and

From and after the Step-Up Date and until the Loan indebtedness is repaid in full, the greater of: (i) 12.0% and (ii) the Prime Rate plus 9.05%.

“**Prime Rate**” means the prime rate of interest announced from time to time by Canadian Imperial Bank of Commerce at its head office in Toronto, Ontario as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada.

Each Borrower Entity acknowledges and agrees that the increase in the Interest Rate on the Step-Up Date occurs solely by passage of time, and not as a result of the occurrence of any default or event of default.

Interest shall be adjusted daily as to fluctuations from time to time in the Prime Rate.

12. **AMORTIZATION:**

Not applicable. (Interest only loan)

13. **PAYMENT DATE:**

Due monthly, on the tenth (10th) day of each month, or on the next the following business day if the tenth (10th) day of any month is not a business day and herein called the “**Payment Date**”), not in advance, with interest being calculated daily, and compounded monthly on each Payment Date on the total of the principal balance plus any accrued interest outstanding on the Payment Date.

14. **PREPAYMENT:**

The Loan is closed and not open for prepayment in whole or in part prior to the 10th day of the sixth (6<sup>th</sup>) month after the Interest Adjustment Date.

When not in default and upon giving to the Lender not less than thirty (30) days prior written notice of the Borrower’s election and intended date to do so, the Borrower may at any time on or after the 10th day of the sixth (6<sup>th</sup>) month after the Interest Adjustment Date prepay the whole (but not part) of the then outstanding Principal Amount plus (i) all accrued and unpaid interest and compound interest calculated to and including the date of prepayment and (ii), all costs and expenses then due payable to the Lender under the Loan Documents. From and after the giving of any such notice, the date of such prepayment so selected by the Borrower shall become the Step-Up Date. In the event that any such notice is given by the Borrower, and if payment is not made in accordance with such notice, the entire Loan indebtedness shall become due and payable forthwith at the option of and upon demand by the Lender, together with an additional three (3) months interest in accordance with the Mortgages Act (Ontario) if applicable.

15. **PARTIAL DISCHARGES:**

No partial discharges shall be permitted under the Loan.

16. **LOAN FEES AND DISBURSEMENTS:**

As consideration for the time, effort, and expense incurred by the Lender and its officers and employees in reviewing the financial and other information, plans, development proposals, materials and other documents, and undertaking the investigations, inspections and other due diligence necessary to prepare and approve this Loan Proposal, each Borrower Entity jointly and severally agrees to pay to the Lender the amount of \$121,000 (the “**Commitment Fee**”) as follows:

- (a) **\$35,000** (the “**Earnest Fee**”) payable upon acceptance of this Loan Proposal [(and in respect of which the Lender acknowledges receipt of \$10,000 as a deposit toward the Earnest Fee)], subject to the following:
  - (i) if the Commitment is not issued through no fault of the Borrower, then the Earnest Fee shall be returned to the Borrower net of any and all disbursements incurred by or on behalf of the Lender for legal fees, third-party peer review and any other reasonable disbursements incurred by the Lender in reviewing the Loan;
  - (ii) if the documents and information submitted by the Borrower are determined by the Lender to be materially different than as originally represented, or if the Borrower fails to provide all documents and information as reasonably requested by the Lender to substantiate the Borrower’s original representations to the Lender, then the Earnest Fee shall be retained by the Lender even if it declines to issue the Commitment;
  - (iii) if the Lender issues the Commitment on terms and conditions which are not materially different from those set out in this Loan Proposal, then the Earnest Fee shall be retained by the Lender whether or not each Borrower Entity accepts and executes the Commitment (and it is agreed that a change of the Expiry Date shall not be material); and
- (b) the balance of the Commitment Fee in the amount of \$86,000, which shall be deemed earned after issuance by the Lender of the Commitment on terms and conditions which are not materially different from those set out in this Loan Proposal (and it is agreed that a change of the Expiry Date shall not be material), whether or not each Borrower Entity accepts and executes the Commitment, and which amount shall be payable at the time of and deducted from the initial Loan advance or on the Expiry Date, whichever shall first occur.

For greater clarity, if the Lender issues the Commitment on substantially the same terms and conditions as this Loan Proposal, and any Borrower Entity elects not to accept or execute the same, or any Borrower Entity defaults under the Commitment prior to the full or initial advance of the Loan, or the Borrower elects not to draw down on the Loan, or if the full or initial advance of the Loan does not occur for any other reason through no fault of the Lender, then the Earnest Fee shall be retained by the Lender and the balance of the Commitment Fee in clause (b) above shall be deemed earned and due and payable forthwith to the Lender by each Borrower Entity, who shall each be jointly and severally liable for the same.

The Borrower shall be responsible for any brokerage or finder’s fees, commissions or other compensation and applicable taxes (collectively, the “**Brokerage Fees**”) payable to MCAP Financial Corporation (the



“Mortgage Broker”) or any other person not affiliated with or contracted by the Lender in connection with the Loan and shall indemnify and hold the Lender and all related entities harmless in respect of same. The Commitment Fee does not include the Brokerage Fees. Such Brokerage Fees will have an impact on the total cost of borrowing reflected on the Statement of Mortgage. The Borrower acknowledges that the Brokerage Fees are in the amount of \$45,000 and hereby irrevocably authorizes and directs the Lender to deduct the Brokerage Fees from the initial Loan advance and paid the same to the Mortgage Broker.

The Borrower acknowledges and agrees to pay, in addition to all other fees and costs described in this Section 16, the typical incidental fees that the Lender may charge from time to time during the term of the Loan, as listed on “Schedule A” attached hereto.

Whether or not the transaction contemplated herein is successfully completed, the Borrower agrees to pay, in addition to all other fees and costs described in this Section 16, the reasonable legal fees and disbursements of the Lender’s legal counsel, Jonathan Freeman of Cassels Brock & Blackwell LLP, or such other legal counsel appointed by the Lender at any time and from time to time (the “Lender’s Solicitors”), for all customary or extraordinary legal services required by the Lender in connection with the Loan. The legal fee for completion of the initial Loan advance is estimated to be \$15,000 not including disbursements and HST.

Each Borrower Entity acknowledges and agrees that: (i) after Closing and at all times following the occurrence of any default or Event of Default (as defined in the Loan Documents), the Borrower will pay to the Lender all amounts equal to any special servicing fee payable by the Lender to its Loan servicer from time to time (calculated at a rate of 0.25% per annum multiplied by the then-outstanding Principal Amount, payable monthly) and any recovery fee payable by the Lender to its Loan servicer from time to time (calculated at a rate equal to 1% of all Loan indebtedness that is paid to or recovered by the Lender on account of the Loan following any default or Event of Default (whether or not subsequently cured, and regardless of how such Loan indebtedness is paid to or recovered by the Lender, including all payments subsequently made by the Borrower and applicable taxes thereon); and (ii) all such servicing fees are fair and commercially reasonable costs and expenses incurred by the Lender in connection with the Loan and do not constitute a fine, penalty or default interest charged on arrears of principal or interest. Until paid by the Borrower to the Lender, all amounts payable on account of such servicing fees (and applicable taxes) will be costs with the meaning of the Loan Documents, and together with interest thereon at the applicable Loan interest rate, will be added to the Loan indebtedness and will be secured by the Loan Documents.

Notwithstanding anything otherwise contained in this Loan Proposal, each Borrower Entity acknowledges and agrees that the provisions of this Section (and other provisions of this Loan Proposal to the extent required to give meaning to the provisions of this Section) shall constitute a binding and enforceable agreement amongst the Lender and each Borrower Entity made for valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each Borrower Entity) and shall be enforceable by the Lender against each Borrower Entity who shall be jointly and severally liable for the obligations and liabilities set out in this Section.

17. **ADVANCES:**

On the Closing Date, the full Loan Amount of \$6,050,000 (the “**Initial Advance**”) will be advanced to or for the benefit of the Borrower as follows:

- (a) the amount of \$86,000 will be paid to the Lender on account of the outstanding balance of the Commitment Fee;
- (b) the amount of \$272,250 will be retained by the Lender or the Lender’s Solicitors on account of an interest reserve (the “**Interest Reserve**”) to be used to fund the last six (6) months of interest coming due under the Loan; and

The Borrower shall acknowledge that the Interest Reserve shall be deemed to have been fully advanced by the Lender to the Borrower and shall bear interest from and after the date of the Initial Advance at the rate and upon the terms set out in the Loan Documents. The Interest Reserve, together with any interest earned thereon, shall be pledged by the Borrower to the Lender as security for the Loan. In the event the Loan is in default, the Lender shall be entitled to utilize and apply, as determined by the Lender in its sole discretion, all, or any part of the Interest Reserve toward payment of principal, interest, costs, and other monies owing under the Loan.

- (c) The balance in the amount of \$5,691,500 will be deposited with the Lender’s Solicitors and will be applied to or for the benefit of the Borrower to pay for closing costs (including brokerage fees and legal costs), acquisition of the Property, and other costs pursuant to the provisions set out herein.

18. **SECURITY:**

The Loan and all Loan indebtedness will be secured and supported by the following documents (the “**Loan Documents**”), each to be in form and substance satisfactory to the Lender and the Lender’s Solicitors:

- (a) a Charge/Mortgage of the Property in the principal amount of \$6,050,000 and securing all Loan indebtedness;
- (b) a General Assignment of Leases and Rents in respect of the Property;
- (c) a General Security Agreement over all personal property of every nature and kind located at, used in connection with or relating to the Property and the Project which is owned by or leased to the Borrower or any Beneficial Owner;
- (d) an indemnity made by each Borrower Entity in favour of the Lender, in the Lender’s standard form, for and in respect of: (i) unauthorized removal of any secured collateral from the Property; (ii) waste or damage to the Property arising from intentional misconduct, willful neglect or gross negligence of any Borrower Entity; (iii) any and all environmental matters; (iv) any claim that any amount paid from any Loan advance as an Interest Reserve or on account of any costs has not been advanced or does not bear interest or is not secured by the Loan documents; (v) failure to comply any requirements of the Loan documents regarding new leases, renewal or extension of existing leases or insurance of the Property; (vi) any fraud or material misrepresentation in connection with the Loan; (vii) misappropriation of rents, insurance proceeds or expropriation proceeds; (viii) breach of restrictions relating to transfers or encumbrances of the Property; or (ix)

- breach of restrictions relating redemption of or payment of dividends under any of the shares or units of any Borrower Entity or withdrawal of any proceeds, profits, capital or other equity from the Project;
- (e) an unlimited joint and several guarantee made by each Guarantor for all Loan indebtedness;
  - (f) if applicable, an agreement by each Beneficial Owner consenting to the Loan, authorizing and directing the Borrower to enter into the Loan Documents, and confirming that the interests of each Beneficial Owner are subject and subordinate to the interests of the Lender under the Loan Documents;
  - (g) an Assignment of Material Documents relating to the Project including, without limitation, all designs, plans, site plans, studies, reports, deposits and levies paid, consultants and construction contracts, management agreements and all other agreements relating to the development and ongoing management of the Property;
  - (h) irrevocable directions to each governmental or quasi-governmental authority that has been provided any security deposit relating to the Project, and to the issuer of each letter of credit provided to satisfy any such security deposit, to pay to the Lender all monies representing such security deposit or posted to secure such letter of credit forthwith upon partial or full release of the requirement for such security deposit and return of the applicable letter of credit as the case may be; and each such irrevocable direction shall be acknowledged by the holder of the security deposit or issuer of the letter of credit as the case may be;
  - (i) An assignment of all Agreements of Purchase and Sale, and all deposits paid in connection therewith, pursuant to which the Project or any part thereof will, upon completion, be sold to one or more third parties;
  - (j) an assignment and agreement in respect of the Interest Reserve in accordance with the provisions set out herein;
  - (k) an assignment of proceeds of all property and liability insurance policies;
  - (l) a subordination & standstill agreement between the Lender and any approved subsequent mortgagees, in form and content satisfactory to the Lender and the Lender's Solicitors;
  - (m) customary resolutions and officer's certificates in respect of each Borrower Entity that is not an individual;
  - (n) one or more opinions provided by counsel for each Borrower Entity, each in form and substance satisfactory to the Lender and the Lender's Solicitors, confirming the existence, power, authorization and execution of the loan documents by each Borrower Entity that is not an individual and the enforceability of the loan documents against each Borrower Entity;
  - (o) one or more title insurance policies insuring the Lender's interest in the Property [and each Collateral Property]; and
  - (p) such other security, documents, acknowledgements, directions, undertakings, and other assurances as may be reasonably required by the Lender or the Lender's Solicitors.



19. **PRE-FUNDING DELIVERABLES:**

Issuance of the Commitment by the Lender shall be subject to its receipt and satisfactory review of each of the following items, which must be received no later than seven (7) days following acceptance of this Loan Proposal in order to allow the Lender sufficient time to complete its review and intended syndication of the Loan:

- (a) the Earnest Fee or the unpaid balance thereof;
- (b) current and previous three (3) years externally prepared financial statements, in a Notice to Reader format for each Borrower Entity that is not an individual (and if newly incorporated or created, then an opening balance sheet and trial balance are required);
- (c) current signed Net-Worth Statement for each Borrower Entity that is an individual;
- (d) a credit check will be required and is consented to by each Borrower Entity. In addition, a corporate and personal due diligence check, using the services of Sterling BackCheck, will be conducted by the Lender and is consented to by each Borrower Entity. The cost of the review shall be borne by the Borrower (**See Schedule "A"**).
- (e) evidence that, prior to the Initial Advance, there shall be not less than **\$2,650,000** of cash equity in the Property and/or the Project;
- (f) an organizational chart showing the relationships to the Property amongst the Borrower, each Beneficial Owner (if any) and their respective shareholders and unit-holders as the case may be;
- (g) for each Borrower Entity that is a corporation, (i) copies of its articles of incorporation and all amendments thereto, and (ii) the full names of all officers, directors, and shareholders thereof;
- (h) for each Borrower Entity that is a partnership or trust, copies of the signed partnership or trust agreement as the case may be and any amendments thereof;
- (i) copy of the birth certificate, passport or citizenship card for each Borrower Entity that is an individual;
- (j) the following reports for each Property, each prepared by a consultant acceptable to the Lender and with a reliance letter addressed to the Lender stating that it may rely on such report:
  - (i) appraisal report prepared within the past 12 months;
  - (ii) current Phase 1 Environmental Report;
  - (iii) if necessary, current Phase 2 Environmental Report;
  - (iv) current Geological Report
- (k) the final Agreements of Purchase and Sale including all amendments thereto, entered into by the Borrower to acquire each Property;
- (l) a detailed development budget(s) and schedule, indicating individual costs per line item;
- (m) a pro-forma profit statement;

- (n) copies of all offers to lease, leases, rental agreements, licences and other occupancy agreements, and all amendments thereof, affecting the whole or any part of each Property, together with tenant estoppel certificates if required by the Lender;
- (o) evidence satisfactory to the Lender as to the source of the Borrower's required equity in the each Property (including, if requested by the Lender, the bank account number where the funds will be drawn from and copies of the most recent 3 months of banking statements);
- (p) an overview and assessment report by the Lender's planning consultant that the Project is permitted under current zoning by-laws and can be developed with reasonable effort and within a reasonable time frame; and
- (q) a current and up-to-date survey of each Property signed and certified by a duly qualified Ontario Land Surveyor and prepared in accordance with all applicable surveying standards and practices for real properties in Ontario; and
- (r) satisfactory evidence that property and liability insurance has been obtained for the Property in accordance with the particulars thereof set out on **Schedule "B"** attached hereto, and that all premiums in respect thereof have been paid in full. The Borrower will pay or reimburse the Lender for the fees, disbursements and applicable taxes incurred by the Lender's insurance consultant for its review of the insurance policies.

**20. SYNDICATION AND COMMITMENT CONFIRMATION:**

The Lender reserves the right to syndicate an interest in the Loan to one or more co-lenders who may or may not be related to the Lender. Each Borrower Entity consents to the disclosure by the Lender to any such prospective assignee/participant of all information and documents regarding the Loan, each Property and each Borrower Entity that is in the possession or control of the Lender.

The Lender shall be allowed until its issuance of the Commitment, or until such later time as may be provided by the Commitment, to syndicate a portion or portions of the Loan, in an amount or amounts and upon terms to be determined by and satisfactory to the Lender in its sole discretion, failing which and upon written notice thereof given by the Lender to the Borrower, this Loan Proposal, and the Commitment if issued, will be terminated and at an end, the balance of the Commitment Fee will not be payable and the Earnest Fee shall be returned to the Borrower net of any and all disbursements incurred by or on behalf of the Lender for legal fees, third-party peer review and any other reasonable disbursements incurred by the Lender in reviewing the Loan.

**21. INFORMATION UPDATES AND FINANCIAL REPORTING:**

Until repayment of the Loan, the Borrower(s) shall provide to the Lender, within 14 days after each request for the same, such updated information relating to any of the Project or condition precedent requirements as the Lender may request from time to time.

Until repayment of the Loan or upon request, each Borrower Entity shall provide to the Lender, within 120 days after the end of, as applicable, its fiscal year or each calendar year, the following:



- (a) Notice to Reader financial statements of each Borrower Entity that is not an individual, including a balance sheet and supporting schedules, a detailed statement of income and expenses and supporting schedules, and a statement of change in cash flow;
- (b) Updated net worth statement of each Borrower Entity that is an individual;
- (c) Notice to Reader financial statements in respect of the Property, including a balance sheet and supporting schedules and, if applicable, a detailed statement of income and expenses and supporting schedules;
- (d) If applicable, a current rent roll for the Property containing such detail as may be required by the Lender; and
- (e) If applicable, a budget for the Property for the next fiscal year, forecasting operating income, expenses, and capital expenditures.

**22. GENERAL CONDITIONS:**

- (a) The Borrower agrees to at all times fully comply with all applicable federal, provincial, and municipal laws, statutes, regulations, rules, by-laws, orders, permits, licenses, authorizations, approvals and all applicable common laws or equitable principles whether now or hereafter in force and effect and pertaining to the Property and each Borrower Entity;
- (b) If the Borrower intends to Lease any part of any Property, then the Lender must approve the tenant and its intended use. The Lender may require, in its sole discretion, a statutory declaration, signed by the Tenant, of its intended use. Estoppels Certificates using the Lender's form will be required prior to Closing.
- (c) No subordinate financing to the Loan or subsequent encumbrance of the Property shall be permitted without the prior written consent of the Lender. The Borrower shall disclose to the Lender all existing or proposed financing related to the Project and shall not pledge or otherwise encumber its interest in any Properties or the Loan Documents to any party other than the Lender without the prior written consent of the Lender.
- (d) No distributions of any kind (including but not limited to dividends, payment of interest or principal on any shareholders loans, or management fees payable to any Borrower Entity) shall be permitted to be made to any Borrower Entity or any affiliate thereof or any of the respective directors, officers, and shareholders of them during the term of the Loan without the consent of the Lender, which consent may be arbitrarily withheld.
- (e) The Borrower shall operate a segregated bank account for the Property and the Project during the term of the Loan and all receipts and payments for the Property and the Project must be deposited into and disbursed from such account; and such funds and account shall not be co-mingled with any funds from other projects, properties and/or entities of or related to any Borrower Entity.
- (f) Notwithstanding the satisfaction of all Loan conditions and/or any other event or circumstance of any kind, the Lender will not be required to advance the Loan and may terminate this Commitment at any time if it determines, in its sole discretion, that any event or circumstance has occurred which, in the opinion of the Lender in its sole discretion, either has or could reasonably

be expected to have a material adverse effect on (i) the value or marketability of the Property (including without limitation, the physical, environmental, or financial condition of the Property or any tenant or lease of the Property), or (iii) the financial or other condition of any Borrower Entity or its ability to observe and perform any of its respective covenants and obligations to the Lender under or in respect of the Loan and the Loan documents when due.

- (g) In the event of the Borrower failing to pay any amount when due, or being in breach of any covenant, term or condition of the Loan Proposal, the Commitment if issued, or any Loan Document, or if any representation made by or information provided by any Borrower Entity or its agent or representative is found to be untrue or incorrect, or if any default or Event of Default (as defined in the Loan Documents) occurs, the Borrower shall be in default of its obligations and the Lender may, at its option, declare the Loan indebtedness and any other amount due under the Loan Proposal, the Commitment if issued, and the Loan Documents to be forthwith due and payable, or cease or delay further funding, and/or exercise any and/or all remedies available to it at law or in equity.
- (h) If the Lender deems that use of any Property is illegal, it shall be permitted to inform any governmental authority of the same.
- (i) Until all Loan indebtedness is fully repaid, the Lender shall have the right, on reasonable notice, to conduct inspections of each Property to ensure that it is properly maintained and that its intended use conforms to all laws.
- (j) Each Borrower Entity shall jointly and severally indemnify and save harmless the Lender and its directors, officers, shareholders, agents, trustees, employees, contractors, licensees and other representatives from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature and kind whatsoever arising out of the provisions of this Loan Proposal, the Commitment if issued, and the Loan Documents, and any letters of credit or letters of guarantee issued, and any sale or lease of any Property and/or the Project and/or the use or occupation thereof, including, without limitation, those arising from the right to enter any Property at any time and from time to time and to carry out the various tests, inspections, and other activities permitted by this Loan Proposal, the Commitment if issued, and the Loan Documents. In addition to the obligations and liabilities of each Borrower Entity under this Loan Proposal, the Commitment if issued, and the Loan Documents, each Borrower Entity shall be jointly and severally liable for any and all of the Lender's costs, expenses, damages, or liabilities, including, without limitation, all reasonable legal fees, directly, or indirectly arising out of, or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under, or about any Property of any hazardous or noxious substances. The provisions of this subparagraph are (i) separate and distinct obligations from the other obligations of each Borrower Entity under this Loan Proposal, the Commitment if issued, and the Loan Documents; (ii) survive the repayment the Loan indebtedness and satisfaction of such other obligations and discharge of the Loan Documents; (iii) are not discharged or released by foreclosure by the Lender under the Loan Documents; and (iv) shall continue in effect after any transfer of any Property including, without limitation, transfer pursuant to any judicial or non-judicial foreclosure proceeding or by any transfer in lieu of foreclosure.

- (k) The Borrower and Guarantor(s) will provide the usual warranties and representations respecting: the accuracy of financial statements and that there has been no material adverse change in the financial condition or operations of any Borrower Entity as reflected in the financial statements used by the Lender to evaluate the Loan; title to each Property; the power and authority of each Borrower Entity to execute and deliver documents; the accuracy of documents delivered and representations made to the Lender; that there are no pending adverse claims, outstanding judgments or defaults under agreements relating to any Property and/or the Project; the payment of all taxes; that no consents, approvals or authorizations are necessary or, if required, that same have been obtained; the compliance with the Construction Lien Act (Ontario); the status of permitted encumbrances; that all necessary services are available to the Project; that no hazardous substances used, stored, discharged or present on any Property; and such other reasonable matters as the Lender or the Lender's Solicitors may require.
- (l) The voting and managerial control of the Borrower shall not be changed without the prior written consent of the Lender in its sole discretion.
- (m) The location(s) of the Borrower's offices and records shall not be changed without the prior written consent of the Lender acting reasonably.
- (n) Loan disbursement(s) shall take place only upon title to the Property being acceptable to the Lender's Solicitors and all matters in connection with the priority, validity and enforceability of the Loan Documents and other documentation deemed necessary or advisable by Lender's Solicitors being complied with by each Borrower Entity as applicable.
- (o) The Borrower shall pay forthwith on demand all other reasonable fees and disbursements incurred or to be incurred in connection with the Loan Documents and all other documents, including, without limitation, registration costs, discharge costs, appraisal fees, surveyor's costs, and monitoring costs and costs itemized on Schedule "A" hereto.
- (p) The express or implicit waiver by the Lender of any breach or default by any Borrower Entity under this Loan Proposal, the Commitment if issued, or any Loan Document shall not be construed as a waiver of any other or subsequent breach or default by such Borrower Entity. Any failure by the Lender to exercise any of its rights or remedies shall be not constitute or be construed as a waiver thereof.
- (q) The Loan, this Loan Proposal, the Commitment if issued, and the Loan Documents may be assigned, transferred, or otherwise disposed of by the Lender in whole or in part to any third party without the consent of any Borrower Entity.
- (r) If a Commitment is issued, it is not assignable by any Borrower Entity.
- (s) The Lender shall have the right to provide at its cost a sign, no greater than 2 feet x 3 feet, advertising the fact that financing was provided by the Lender. The sign shall be erected by the Borrower at its cost in a prominent location on or about the hording or construction fence at a location mutually agreed by the Borrower and the Lender.

- (t) This Loan Proposal, and the Commitment if issued, shall be read in conjunction with the Loan Documents. In the event of any inconsistency between the terms of this Loan Proposal and the Commitment and the terms of any of the Loan Documents, the Lender shall decide, in its sole discretion and at its option, which shall prevail.

**23. IDENTIFICATION OF BORROWER ENTITIES:**

Prior to Closing, each Borrower Entity will be required to produce certificates and identification acceptable to the Lender and the Lender's Solicitors for the purpose of compliance with the provisions of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) and regulations thereunder. Such identification shall be clear and legible copies of both the front and back of each identification document, shall include at least two identification documents (with at least one including photo ID), and shall be supported by a solicitor's certification thereof and confirmation that the identity of all persons signing as or on behalf of each Borrower Entity have been properly identified and that their signatures are genuine. An Ontario Health Card is not an acceptable identification document.

**24. REPRESENTATIONS AND ACKNOWLEDGEMENTS**

Each Borrower Entity acknowledges, represents, and warrants that:

- (a) the Lender is a "Licensed Brokerage" (License No. 10160) and an "Administrator" (License No. 11205) under the Mortgage Brokerages, Lenders and Administrators Act (Ontario), and the Lender is not aware of any conflicts of interest in acting as lender herein and as a brokerage and administrator within the meaning of such Act, or as between the Lender and any Mortgage Broker (as defined above);
- (b) as of the date of the acceptance of this Loan Proposal and as of the Closing Date, it has and will have the power, capacity, and authority to enter into this Loan Proposal, and the Commitment if issued, and to perform and complete the transaction contemplated herein, all of which has been duly authorized by all necessary corporate, partnership and/or trust action(s) as applicable and that no third-party consents are necessary;
- (c) it has not withheld and will not withhold any information of a material nature relating to the Property, the Project, or any Borrower Entity;
- (d) it has had an opportunity to consult its legal counsel, accountants, and other financial advisors;
- (e) it has been informed of and has considered the risks involved in the Loan, including, without limitation, (i) that the Lender is not an institutional lender; (ii) that the Interest Rate and other terms of the Loan may be higher and more onerous than that of institutional lenders; (iii) the Loan will bear interest only and, except as otherwise provided, the entire outstanding Principal Amount, accrued and unpaid interest and costs will be due and payable in full on the Maturity Date; (iv) default under the Loan may result in the Borrower's equity being at risk; (v) each Guarantor may be called upon to repay the Loan in full and make good on shortfalls required to fully repay the Loan; (vi) the Borrower's ability to service and refinance the Loan may be dependent upon factors beyond the Borrower's control, including, but not limited to, the impairment of the sources of cash flow, the Lender's refusal to renew or extend the Loan on maturity thereof, the lack of other refinancing alternatives and/or adverse market conditions; and (vii) in the event any default under the Loan which is not cured within any time allowed therefor, the Lender will be entitled to



enforce all remedies available by law including, without limitation, sale of or foreclosure upon any Property, seizure of rents and income, obtaining a court judgment and entitlement to payment three (3) months of additional interest; and

- (f) the Borrower's ability to repay the Loan will not be supported by insurance upon the life of any Borrower Entity. The Borrower is encouraged to consult with its' insurance professionals in such regard.

25. **PRIVACY LEGISLATION AND POLICIES**

The Lender and all of its related or associated companies (collectively, the "Vector Group") follow and comply with the Personal Information Protection and Electronic Documents Act (Canada). Vector Group's Privacy Policy is available at [www.vectorfinancialservices.com](http://www.vectorfinancialservices.com). Each Borrower Entity confirms and represents that it has read, understands, and agrees to the Vector Group's Privacy Policy.

Each Borrower Entity has provided certain personal and financial information to the Lender. Each Borrower Entity consents to the Lender using the information so provided to ascertain the credit-worthiness of the Borrower Entity, including, without limitation, obtaining credit reports, contacting the Borrower Entity's bank, verifying employment, and completing background, bankruptcy, and criminal checks. Each Borrower Entity hereby grants permission to the Lender to obtain such credit reports.

The funds advanced under the Loan will likely come from a number of private participants who will each contribute to a portion of the Loan. The Mortgage Brokerages, Lenders and Administrators Act (Ontario) requires that all lenders have access to financial information about the borrower's ability to meet mortgage payments. This information is provided in the required *Investor/Lender Disclosure Statement for Brokered Transactions*, which all participants in the Loan will receive.

26. **GENERAL CONTRACT PROVISIONS**

This Loan Proposal constitutes the entire agreement between the parties and there are no other representations, warranties, terms, or conditions pertaining to this Loan Proposal or the subject matter hereof other than as herein set forth. All Schedules to this Loan Proposal form a part hereof. No amendment or release of this Loan Proposal shall be binding or enforceable unless made in writing signed by all of the parties hereto. Time is and shall remain of the essence under this Loan Proposal; provided that the time for performing or completing any matter under or pursuant to this Loan Proposal may be extended or abridged by an agreement in writing by the parties or their respective solicitors. Failure by any party to strictly enforce any provisions hereof shall not operate as a waiver or limitation of such party's rights hereunder in respect of any subsequent default. If any provision of this Loan Proposal or the application thereof to any person or circumstance is to any extent held or rendered invalid, unenforceable, or illegal, same shall be considered separate and severable herefrom and all other provisions of this Loan Proposal shall remain in full force and effect and be binding upon the parties hereto. The headings set forth in this Loan Proposal are inserted for convenience and reference only and shall not define or limit the intent or interpretation of any of the provisions hereof. This Loan Proposal shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context, and the covenants and agreements of each party shall be deemed to be joint and several where such party is more than one person, firm, or corporation. Nothing in this Loan Proposal shall constitute or be construed or deemed as creating the relationship of principal and agent, partnership, joint tenancy, or joint venture between or amongst the Lender and any Borrower Entity. All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles

applied on a consistent basis. All amounts referred to in dollars shall mean dollars in lawful money of Canada unless otherwise expressly provided herein.

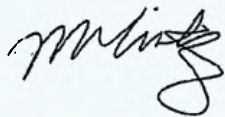
27. **APPLICABLE LAW**

This Loan Proposal shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and shall be treated in all respects as an Ontario contract. Each party hereto irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.

If the terms and conditions of this Loan Proposal are acceptable, please so indicate by signing the attached copy of this Loan Proposal and return it to the writer's attention by August 10, 2017 together with the Earnest Fee or the balance thereof as set out in Section 17 above.

Yours very truly,

**VECTOR FINANCIAL SERVICES LIMITED**



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Noah Mintz  
Managing Director  
Lic. #: M08006173



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Mitchell Oelbaum  
Chief Operating Officer  
Lic. #: M13001562

**ACCEPTANCE OF LOAN PROPOSAL**

ACCEPTED on the terms and conditions herein provided this 16 day of August, 2017.

**Highyon Development No. 118 LP. - As Borrower**



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Per: Bing Pu  
I have the sole authority to bind the corporation.



---

Mr. Roger Bing Pu - As Guarantor



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Witness:

**SCHEDULE "A" – FEE SCHEDULE**

<b>Item</b>	<b>Estimated Fee Amount</b>	<b>Comments</b>
Mortgage Statement	\$350 per Statement	<ul style="list-style-type: none"> <li>• For information purposes</li> <li>• For audit verification</li> </ul>
Approval of Subordinate Financing	\$350	<ul style="list-style-type: none"> <li>• Approval of subordinate financing</li> </ul>
Mortgage Discharge Statement	\$350 per statement	<ul style="list-style-type: none"> <li>• Pay off and discharge mortgage</li> </ul>
Expense Recovery re Credit Bureau & Due Diligence Report (Sterling BackCheck)	\$35 per credit report \$75- \$150 Sterling BackCheck report (per guarantor)	<ul style="list-style-type: none"> <li>• Deducted from first advance to reimburse lender for expenses incurred in ordering credit bureau and Sterling BackCheck investigations</li> </ul>
Valuation Verification (RealNet)	\$250 per Loan	<ul style="list-style-type: none"> <li>• Valuation Verification</li> </ul>
Expense Recovery re Site Inspections.	To be determined	<ul style="list-style-type: none"> <li>• Deducted from first advance to reimburse lender for all reasonable costs incurred as part of due diligence.</li> </ul>
Title Search (Teranet)	\$40 per PIN	<ul style="list-style-type: none"> <li>• To confirm title (as required)</li> </ul>
N.S.F. Cheque and/or Failed Debit under an EFT Plan	\$350 per occurrence	<ul style="list-style-type: none"> <li>• The borrower shall pay liquidated damages to cover the lender's administrative costs.</li> </ul>
Insurance Coverage Change	\$350 per occurrence	<ul style="list-style-type: none"> <li>• Lapsed or cancelled insurance not reinstated or replaced by borrower. Lender shall have option to replace coverage without notice to borrower.</li> </ul>
Property Insurance Review	\$500-\$750 (land only) \$1,000-\$1,500 (land and construction)	<ul style="list-style-type: none"> <li>• Peer review of insurance coverage by Intech Risk Management</li> <li>• Quote available on request for land and construction review</li> </ul>
Environmental Site Assessment – Peer Review Report	\$500 - \$1,000 per Report	<ul style="list-style-type: none"> <li>• Peer review of subject property for hazardous materials and contaminants.</li> </ul>
Geotechnical Reports	\$500 - \$1,000 per Report	<ul style="list-style-type: none"> <li>• Peer review of subject property for site suitability.</li> </ul>
Cost Consultant	\$500 - \$1,000 per Report	<ul style="list-style-type: none"> <li>• Peer review of construction budget, work in place and cost to complete</li> </ul>
Planning Review	\$1,500 - \$3,000 per Report	<ul style="list-style-type: none"> <li>• Peer review of planned development</li> </ul>
Subsequent Advance Review (Hard & Soft Costs)	\$500-\$1,000	<ul style="list-style-type: none"> <li>• Deducted from the draw upon release of funds to the Borrower</li> </ul>
Default Letters	\$750 per occurrence	<ul style="list-style-type: none"> <li>• For each collection letter written whether in connection with one default or more.</li> </ul>
Default Administration	\$2,500 monthly \$5,000 monthly	<ul style="list-style-type: none"> <li>• 1<sup>st</sup> default that remains uncured for 14 days.</li> <li>• 2<sup>nd</sup> and subsequent default that remains uncured for 14 days.</li> </ul>
Annual Review	\$500 per year	<ul style="list-style-type: none"> <li>• Confirmation of realty taxes</li> <li>• Confirmation of insurance coverage</li> <li>• Project monitoring</li> </ul>
Bank Processing Fee	\$500	<ul style="list-style-type: none"> <li>• On repayment of Loans over \$2Million</li> </ul>



## SCHEDULE "B" - INSURANCE REQUIREMENTS


1. "Builders' All Risks" insurance against damage to or destruction of all buildings and improvements to be constructed on the Property and "All Risks" insurance against damage to or destruction of any buildings and improvements situate on the Property, including footings, foundations, and all parts thereof above and below grade, in an amount which is equal to the full replacement cost thereof, and subject to the following terms and conditions:
  - (a) Replacement cost endorsement;
  - (b) Deletion from the policy any provision requiring reconstruction on same or adjacent sites;
  - (c) An endorsement to the effect that the policy will cover any additional costs of reconstruction as a result of enforcement of current building by-laws and regulations, including the cost of demolition of any undamaged portion of any building or improvement;
  - (d) Such policy of insurance shall not contain a percentage co-insurance endorsement other than a stated amount co-insurance endorsement for an amount not less than full replacement cost;
  - (e) Such policy of insurance shall be written with loss payable to the Lender in accordance with a form of mortgage clause approved by the Insurance Bureau of Canada or other organization acceptable to the Lender including, without limitation, that the policy will remain in full force notwithstanding anything contained in or omitted from the application therefor, that such insurance will not be invalidated or affected by any act or omission of any person other than the Lender and that such policy will not be cancelled, terminated or permitted to expire unless the Lender shall first receive thirty (30) days prior written notice of same;
2. Broad form boiler and machinery insurance, including pressure vessels, heating, and air conditioning equipment and other like equipment forming part of the improvements on the Property, against loss or damage by explosion, rupture of steam pipes and other usual risks covered by such insurance, in an amount which is equal to the full replace cost thereof, and upon and subject to the same terms and conditions required under paragraph 1;
3. Comprehensive general liability insurance against loss from liability imposed by law as owner or landlord of the Property resulting from personal injury or death, and damage to or loss of property, of any person, in an amount not less than \$5,000,000 on a single occurrence basis;
4. Insurance against loss of rent, rental value and other payments required to be paid or made by tenants, or loss of income and profits from the business carried out on the Property from at least those risks covered by the insurance herein required and under which the period of indemnity will be not less than twelve months, and to the extent of not less than 100% of such loss of gross rent or rental value, or income value from time to time with no co-insurance provisions; and
5. Any and all other insurance coverages which the Lender may reasonably require from time to time.

The foregoing shall not be construed as a recommendation or opinion by the Lender as to the full scope of insurance which may be required by a prudent owner of the Property, and each Borrower Entity is hereby advised to govern itself accordingly in that regard.



**TAB D**

**THIS IS EXHIBIT "D"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
[REDACTED] and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.

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

yyyy mm dd Page 1 of 15

**Properties**

<i>PIN</i>	03215 - 1220 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 12 PL 1960 VAUGHAN AS IN R430908; EXCEPT PT 6 65R34243; TOWN OF RICHMOND HILL		
<i>Address</i>	9113 BATHURST STREET VAUGHAN		
<i>PIN</i>	03215 - 1223 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LTS 11 & 12 PL 1960 (VGN) PTS 1 & 2 65R30010 EXCEPT PTS 6 & 7 65R34155 & EXCEPT PT 7 65R34243 AND SAVE & EXCEPT PTS 2 & 3, ON 6535056; TOWN OF RICHMOND HILL		
<i>Address</i>	9125 BATHURST STREET VAUGHAN		

**Chargor(s)**

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

<i>Name</i>	HIGHYON GP NO.118 CORP.
<i>Address for Service</i>	350 Highway 7 East Suite 310 Richmond Hill, ON L4B 3N2

I, Bing Pu, Authorized Signatory, have the authority to bind the corporation.

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

This transaction is for a partnership purpose within the meaning of the Limited Partnerships Act.

I am a general partner.

<i>Name</i>	HIGHYON DEVELOPMENT NO. 118 LP
<i>Address for Service</i>	350 Highway #7 East, Suite 310 Richmond Hill, Ontario L4B 3N2

This is the firm name of the Partnership/Limited Partnership.

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

<i>Name</i>	VECTOR FINANCIAL SERVICES LIMITED
<i>Address for Service</i>	25 Imperial Street Suite 500 Toronto, ON M5P 1B9

**Statements**

Schedule: See Schedules

**Provisions**

<i>Principal</i>	\$ 5,550,000.00	<i>Currency</i>	CDN
<i>Calculation Period</i>	calculated daily and compounded monthly		
<i>Balance Due Date</i>	2019/05/10		
<i>Interest Rate</i>	See Schedule		
<i>Payments</i>			
<i>Interest Adjustment Date</i>	2017 10 10		
<i>Payment Date</i>	10th day of each month		
<i>First Payment Date</i>	2017 11 10		
<i>Last Payment Date</i>	2019 05 10		
<i>Standard Charge Terms</i>	200033		
<i>Insurance Amount</i>	full insurable value		
<i>Guarantor</i>	Bing Pu		

**Signed By**

Henry Kou-See Hui	301-350 Highway 7 East Richmond Hill L4B 3N2	acting for Chargor(s)	Signed	2017 09 29
Tel	905-881-7722			
Fax	905-881-1222			

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

**Submitted By**

HENRY K. HUI & ASSOCIATES	301-350 Highway 7 East Richmond Hill L4B 3N2	2017 09 29
Tel	905-881-7722	
Fax	905-881-1222	

**Fees/Taxes/Payment**

<i>Statutory Registration Fee</i>	\$63.35
<i>Total Paid</i>	\$63.35

**File Number**

*Chargee Client File Number :* 49004-26



## SCHEDULE "A"

### ADDITIONAL PROVISIONS

#### 1. STANDARD CHARGE TERMS

The terms contained in this schedule are in addition to the terms contained in the Standard Charge Terms. In the event of any conflict between the terms contained in this schedule and those contained in the Standard Charge Terms, the terms contained in this schedule shall, to the extent of the conflict, prevail.

#### 2. DEFINITIONS

In this schedule, the following definitions apply:

- (a) **Applicable Laws** means, in respect of any person, property, transaction or event, all applicable federal, provincial or municipal laws, statutes, regulations, rules, by-laws, policies and guidelines, orders, permits, licences, authorizations, approvals and all applicable common law or equitable principles in force and effect during the currency of this Charge;
- (b) **Balance Due Date** means nineteen (19) months from the Interest Adjustment Date;
- (c) **Charge** means this Charge/Mortgage of Land made pursuant to the *Land Registration Reform Act* and any amendments thereto and including the Standard Charge Terms;
- (d) **Chargee** shall mean Vector Financial Services Limited;
- (e) **Chargor** shall mean Highyon Development No. 118 LP by its general partner Highyon GP No. 118 Corp.;
- (f) **CIBC** means the Canadian Imperial Bank of Commerce;
- (g) **Commitment Letter** means collectively the loan proposal issued by the Chargee and addressed to the Chargor dated August 4, 2017 and the commitment letter issued by the Chargee and addressed to the Chargor dated the 15th day of September, 2017, setting out the terms of the loan secured by this Charge, as they may be amended from time to time;
- (h) **Costs** shall include but not be limited to all of the fees, costs, charges, losses, damages and expenses incurred by the Chargee as a direct or indirect consequence of granting the loan secured by this Charge including, without limitation, all expenses incurred in the construction, preservation, maintenance, repair, insuring and realization of the security contained herein, and all legal costs incurred by the Chargee as between a solicitor and his own client;
- (i) **Covenantor** shall mean Bing Pu;
- (j) **Environmental Laws** means all present and future Applicable Laws, standards and requirements relating to environmental or occupational health and safety matters, including those relating to the presence, release, reporting, licensing, permitting, investigation, disposal, storage, use, remediation and clean-up or any other aspect of a Hazardous Substance;
- (k) **Environmental Proceeding** means any investigation, action, proceeding, conviction, fine, judgment, notice, order, claim, directive, permit, license, approval, agreement or Lien of any nature or kind arising under or relating to Environmental Laws;

- (l) **Hazardous Substance** means any substance or material that is prohibited, controlled, otherwise regulated by any governmental authority or is otherwise hazardous in fact, including without limitation contaminants, pollutants, asbestos, lead, urea formaldehyde foam insulation, polychlorinated by-phenyls or hydrocarbon products, any materials containing same or derivatives thereof, explosives, radioactive substances, petroleum and associated products, underground storage tanks, dangerous or toxic substances or materials, controlled products, and hazardous wastes.
- (m) **Interest** means interest at the Interest Rate calculated daily and compounded monthly not in advance both before and after maturity, default, and judgment;
- (n) **Interest Adjustment Date** means October 10, 2017;
- (o) **Interest Rate** means the greater of 9.25% per annum, or the CIBC Prime Rate from time to time plus 6.30% per annum for the first eighteen (18) months of the Loan Term, increasing to the greater of 12.00% per annum or the CIBC Prime Rate from time to time plus 9.05% per annum (the "**Overholding Rate**") thereafter. Interest on advanced funds will be calculated daily, compounded monthly and payable monthly;
- (p) **Loan** means the loan made by the Chargee to the Chargor pursuant to the terms of the Commitment Letter.
- (q) **Monthly Payments** means the payments of Interest only made on the tenth (10th) day of each month on the Principal outstanding from time to time;
- (r) **Prime Rate** means the annual rate of interest which is announced from time to time by CIBC as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans made in Canada;
- (s) **Principal Amount or Principal** means the maximum principal amount of \$5,550,000.00 in lawful money of Canada which may be advanced under this Charge as it may be increased or decreased prior to registration of a discharge of this Charge;
- (t) **Project** means the proposed development located on the Property which will include the construction of 19-22 townhomes with a gross floor area of approximately 39,000 square feet;
- (u) **Property or Charged Property** means the lands described in the Charge to which this Schedule is attached and all buildings, fixtures and improvements now or hereafter brought or erected thereon;
- (v) **Standard Charge Terms** means the set of Standard Charge Terms filed as No. 200033; and
- (w) **Receiver** means a receiver or receiver-manager of the Property.

### 3. CHARGE

Upon the request of the Chargee, the Chargor hereby give this Charge and charges the Property as security for full payment to the Chargee of the Principal Amount, Interest and all other amounts payable hereunder and as security for the observance and performance of all of the obligations of the Chargor to the Chargee pursuant to this Charge or otherwise.

#### 4. MONTHLY PAYMENTS

Interest on the Principal Amount from time to time advanced prior to the Interest Adjustment Date, computed from the respective dates of such advances to the Interest Adjustment Date, shall, at the option of the Chargee, be deducted from the advances; after the Interest Adjustment Date, the Interest only payments computed from the Interest Adjustment Date on the Principal Amount outstanding from time to time, shall become due and be paid in Monthly Payments as provided by this Schedule to this Charge and the balance of the Principal Amount and Interest shall become due and payable on the Balance Due Date. The Monthly Payments, when received, shall be applied firstly to outstanding Costs, secondly to outstanding Interest and the balance shall be applied to the Principal Amount outstanding.

#### 5. PREPAYMENT

The Loan is closed and not open for prepayment in whole or in part prior to the 10th day of the Tenth (10th) month after the Interest Adjustment Date. Provided no Event of Default, as hereinafter defined, has occurred and is continuing, and provided the Chargor gives the Chargee not less than thirty (30) days prior written notice of its election to do so, the Chargor shall have the opportunity at any time on or after the 10th day of the tenth (10th) month after the Interest Adjustment Date to prepay the whole (but not part) of the then outstanding Principal Amount plus: (i) all accrued and unpaid Interest and compound Interest calculated to and including the date of prepayment; and (ii) all costs and expenses then due and payable to the Chargee under the Loan documents. If the Chargor elects to exercise its rights to prepay the Loan prior to the Balance Due Date, this must be so indicated by the Chargor to the Chargee in writing and a date for such prepayment shall be chosen by the Chargee (the "New Maturity Date"). If the Chargor fails to pay off the Loan in full on the New Maturity Date, then the entire Principal Amount outstanding under the Loan shall be due and payable immediately and the Interest Rate charged thereon shall be set at the Overholding Rate, and three (3) months interest shall be due and payable.

#### 6. PAYMENTS BY CHARGE

The Chargee may pay all premiums of insurance and all taxes, rates, levies, charges, assessments, utility and heating charges which shall from time to time fall due and be unpaid in respect of the Property and all costs, charges, legal fees (as between solicitor and his own client) and expenses as deemed necessary by the Chargee to preserve the Property and/or to realize upon the Chargee's security and all such payments shall be deemed Costs hereunder.

#### 7. COSTS

Costs shall be forthwith due and payable by the Chargor to the Chargee and shall bear Interest until fully paid.

#### 8. INSURANCE PROVISIONS

The Chargor will at all times during the Term maintain the insurance required by the Chargee including, without limitation, the following coverages:

- (i) builders' all risk coverage, including flood, earthquake and sewer back-up for an amount satisfactory to the Chargee, on a replacement cost basis, with loss payable to the Chargee by way of the IBC Standard Mortgage Clause. The policy will provide coverage for 100% of the hard construction costs and recurring soft costs. The policy must allow for partial occupancy of the premises;
- (ii) comprehensive broad form boiler and machinery insurance covering all pressure vessels (whether fired or unfired), air conditioning and miscellaneous electrical apparatus on the Property, for an amount



- satisfactory to the Chargee, with loss payable to the Chargee under a Boiler and Machinery Insurance Association mortgage clause;
- (iii) third party liability coverage for a minimum of \$5,000,000 per occurrence, covering the Chargor and all contractors, sub-contractors and trades with respect to work or operations at the Project, or in respect of the Project written on an inclusive basis;
  - (iv) fire insurance on a replacement cost basis; and
  - (v) such other insurance coverage which is normal and customary for a construction project similar to the Project.

All policies shall name the Chargee as first mortgagee and loss payee and shall be on a "no co-insurance" basis. All such insurance shall be placed with a company or companies satisfactory to the Chargee. Deductible amounts shall also be subject to Chargee's approval. All cancellation and alteration clauses in the above-referenced policies, including those contained in the mortgage clause endorsements, shall provide for at least thirty (30) days prior written, notice to the Chargee of any cancellation or material alteration to the policy. The Chargor shall provide evidence of policy renewal or satisfactory replacement annually at least thirty (30) days prior to expiry. The Chargor shall deliver to the Chargee original or certified copies of all policies required hereunder. At the time of funding, the expiry date of each of the insurance policies required hereunder shall be at least one year from the date of funding. The Chargee shall be entitled to require coverage of such other risks and perils as the Chargee may from time to time consider advisable or desirable and in respect of which insurance coverage is available.

#### 9. ENVIRONMENTAL CLAUSE

##### Representations:

The Chargor hereby represents, warrants, covenants and agrees with the Chargee that the Property and all businesses and operations conducted thereon comply with all Environmental Laws. The Property has not been used for or designated as a waste disposal site and, except as disclosed in the environmental audit obtained by the Chargee prior to the advance of funds under this Charge (the "**Environmental Audit**"), contains no Hazardous Substances and there is no existing or threatened Environmental Proceeding against or affecting the Property. Copies of all existing environmental assessments, audits, tests and reports relating to the Property have been delivered to the Chargee. To the best of the Chargor's knowledge and belief, there are no pending or proposed changes to Environmental Laws or to any Environmental Proceedings which would render illegal or materially restrict or change the present use and operation of the Property. Except as disclosed in the Environmental Audit, neither of the Chargor nor, to the best of the Chargor's knowledge and belief after due inquiry and investigation, any other person or organization: (i) has used or permitted the use of the Property to generate, manufacture, refine, treat, transport, store, handle, dispose, transfer, produce or process Hazardous Substances; (ii) has been subject to any Environmental Proceeding related to the Property; (iii) has caused or permitted the release or discharge of any Hazardous Substance on or in the vicinity of the Property; (iv) has received or otherwise has knowledge of any Environmental Proceedings or of any facts which could give rise to any Environmental Proceeding related to the Property; (v) has undertaken any remediation or clean-up of any Hazardous Substance on or in the vicinity of the Property; or (vi) has defaulted in reporting any occurrence or circumstance to any governmental authority in relation to the Property which is or was required to be reported pursuant to any Environmental Laws.

##### Covenants:

The Chargor shall: (i) ensure that the Property and the Chargor comply with all Environmental Laws at all times; (ii) not permit any Hazardous Substance to be located,

manufactured, stored, spilled, discharged or disposed of at, on or under the Property (except in the ordinary course of business of the Chargor or any tenant and in compliance with all Environmental Laws) nor permit any other activity on or in respect of the Property that might result in any Environmental Proceeding affecting the Property, Chargor or Chargee; (iii) notify the Chargee promptly of any threatened or actual Environmental Proceedings; (iv) remediate and cure in a timely manner any non-compliance by the Property or the Chargor with Environmental Laws, including removal of any Hazardous Substances from the Property; (v) maintain all environmental and operating documents and records including all permits, licenses, certificates, approvals, orders and agreements relating to the Property as required by Environmental Laws; (vi) provide the Chargee promptly upon request with such information, documents, records, permits, licences, certificates, approvals, orders, agreements, environmental audits, reports, assessments and inspections and take such other steps (all at the Chargor's expense) as may be required by the Chargee to confirm and/or ensure compliance by the Property and the Chargor with Environmental Laws, and (vii) execute all consents, authorizations and directions necessary to permit any inspection of the Property by any governmental authority and to permit the release to the Chargee or its representatives, of any information relating to the Property and the Chargor.

**Indemnity:**

Without limiting any other provision of this Charge or any document collateral hereto, the Chargor shall indemnify and pay, protect, defend and save the Chargee harmless from and against all actions, proceedings, losses, damages, liabilities, claims, demands, judgments, costs, expenses, (including legal fees and disbursements on a solicitor and his own client basis) (collectively "**Environmental Claims**"), imposed on, made against or incurred by the Chargee arising from or relating to, directly or indirectly, and whether or not disclosed by the Environmental Audit and whether or not caused by the Chargor or within its control, (i) any actual or alleged breach of Environmental Laws relating to or affecting the Property, (ii) the actual or alleged presence, release, discharge or disposition of any Hazardous Substance in, on, over, under, from or affecting all or part of the Property or surrounding lands, including any personal injury or property damage arising therefrom, (iii) any actual or threatened Environmental Proceeding affecting the Property including any settlement thereof, (iv) any assessment, investigation, containment, monitoring, remediation and/or removal of all Hazardous Substances from all or part of the Property or surrounding areas or otherwise complying with Environmental Laws, or (v) any breach by the Chargor of any covenant hereunder or under any document collateral hereto or under Applicable Law relating to environmental matters. This indemnity shall survive repayment of the loan secured hereby, foreclosure upon this Charge and any other extinguishing of the obligations of the Chargor under this Charge and any other exercise by the Chargee of any remedies available to it against the Chargor.

**Inspections:**

The Chargee or its agent may, at any time, before and after an Event of Default, and for any purpose deemed necessary by the Chargee, enter upon the Property, upon 48 hours' prior written notice to the Chargor (except in the case of an emergency), to inspect the Property and buildings thereon to ensure it is properly maintained and that its intended use conforms to all laws. Without in any way limiting the generality of the foregoing, the Chargee may enter upon the Property, upon 48 hours' prior written notice to the Chargor (except in the case of an emergency), to conduct any environmental testing, site assessment, investigation or study deemed necessary by the Chargee and the reasonable cost of such testing, assessment, investigation or study, as the case may be, shall bear interest at the rate set out in this Charge from the date of disbursement until paid and all such sums together with interest as aforesaid shall be a charge upon the Property. The exercise of any of the powers enumerated in this clause shall not result in the Chargee, or its agents being deemed to be in possession, management, or control of the Property and buildings.

**10. PROPERTY MANAGEMENT**

The Chargee shall have the right to require the Chargor to retain professional property management for the Property satisfactory to the Chargee, acting reasonably. The Chargee shall also have the right to approve the terms and conditions of the management agreement. Any change in the management of the Property shall require the prior written approval of the Chargee, both as to manager and the terms and conditions of the management agreement.

#### 11. SURVIVAL OF COMMITMENT LETTER

Neither the execution and delivery of this Charge or any security documents which are contemplated by the Commitment Letter nor the advance of any portion of the Principal Amount shall, at any way, merge or extinguish the Commitment Letter or the terms and conditions contained in the Commitment Letter. The Commitment Letter and all of its provisions shall continue in full force and effect until the Principal Amount has been repaid in full; provided that in case of any inconsistency or conflict between any provision or provisions of the Commitment Letter and any provision or provisions of this Charge or any other security documents granted pursuant to the Commitment Letter, the provisions of the Commitment Letter, as same may have been amended from time to time, shall prevail.

#### 12. EVENTS OF DEFAULT

The Chargor shall be in default under this Charge if any one or more of the following events of default (an "**Event of Default**") occurs at any time or times prior to registration of a complete discharge of this Charge:

- (a) the Chargor default under any one or more of the covenants, conditions, terms, agreements, provisions and obligations contained in this Charge to be kept, observed and performed by the Chargor;
- (b) the Chargor becomes insolvent, bankrupt or a trustee in bankruptcy is appointed for the Chargor or the Chargor makes a general assignment for the benefit of creditors or goes into liquidation either voluntarily or under an order of the court of competent jurisdiction or otherwise acknowledges his insolvency;
- (c) there is shown to be any discrepancy or inaccuracy in any written information, statement, warranty or representations made or furnished to the Chargee by or on behalf of the Chargor with respect to the Property or the Chargor financial condition and if such discrepancies or inaccuracies are material in the opinion of the Chargee, acting reasonably;
- (d) the Chargor defaults under any one or more covenants, conditions, terms, agreements, provisions and obligations contained in any document submitted to the Chargee by or on behalf of the Chargor in connection with this Charge;
- (e) any or all of the shares issued and outstanding in the capital stock of the Chargor are directly or indirectly transferred, pledged, encumbered, hypothecated or dealt with in any manner whatsoever such that the Chargee determines, in its sole and unfettered discretion, that there is a change in control of the Chargor;
- (f) there is litigation or any other proceeding, application, claim or action before any court, administrative board, or other tribunal which, if determined adversely to the Chargor or, in the opinion of the Chargee, acting reasonably, would materially affect the Property, the financial condition of the Chargor or the value of the Property;
- (g) there is rendered against the Chargor a final judgment, order or decree for the payment of money which remains unpaid for 30 days and which, in the sole opinion of the Chargee, will materially affect the Property, the financial condition of the Chargor or the value of the Property;

- (h) the Chargor is in default under any subsequent mortgage or encumbrance affecting the Property;
- (i) there is a change in mind or management or location of the Chargor's offices or place of records without the consent of the Chargee, not to be unreasonably withheld; or
- (j) the Chargor fails to operate a segregated bank account for the Property or Project or co-mingles any funds from any other projects or properties and/or entities of the Chargor or Covenantor;

If any of the foregoing Events of Default shall occur and which Event of Default remains uncured by the Chargor for a period of five (5) days after notice is received by the Chargor of such Event of Default then, notwithstanding the provisions of any other agreement between the Chargor and the Chargee and at the option of the Chargee, the whole of the Principal Amount and Interest shall immediately become due and payable and the Chargee shall be relieved of any further obligations to advance monies to the Chargor. If an Event of Default is waived by the Chargee, such waiver shall not operate as a waiver of any other, further or continuation of the same Event of Default. In addition, any failure by the Chargee to exercise any rights or remedies hereunder shall not constitute a waiver hereof.

### 13. DUE ON SALE

If:

- (a) the Chargor or beneficial owner of the Charged Premises directly or indirectly sells, conveys, transfers or otherwise disposes of its interest in the Property or any part thereof or agrees to do so;
- (b) there is a change in the direct or indirect effective voting control of the Chargor or more than 25% of the voting shares/units of the Chargor are transferred unless the Chargor is a publicly traded entity (as hereinafter defined); or
- (c) the Chargor amalgamates or merges;

without the prior written consent of the Chargee being obtained, such consent not to be unreasonably withheld, then the Chargee may, at its option, declare forthwith due and payable the entire balance of the unpaid principal together with accrued and unpaid interest due thereon. The decision to accelerate the Loan shall be at the sole option of the Chargee. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. A "publicly traded entity" means an entity whose shares/units are listed and traded on a recognized stock exchange in Canada or the United States.

The Chargor will provide reasonable notice to the Chargee of any anticipated or impending transaction which would require the consent of the Chargee under this Section together with such reasonable information as the Chargee may require to determine whether or not to grant its consent thereto.

No sale or other dealing by the Chargor with the Property or any part thereof shall in any way change or affect the liability of the Chargor hereunder, or in any way alter the rights of the Chargee as against the Property, the Chargor or any other person or persons liable for payment of the Principal Amount, Interest and Costs.

### 14. SUBSEQUENT ENCUMBRANCES

The Chargor shall not, without the Chargee's prior written approval, which may be withheld in its sole discretion, further charge or otherwise encumber the Property or any interest therein. The Chargor shall disclose to the Chargee all existing or proposed financing relating to the Project and the Security and shall not pledge or otherwise



encumber its interest in the Property or the Security to any other party other than the Chargee, without the prior written approval of the Chargee, which may be withheld in its sole discretion.

**15. RIGHT TO DISTRAIN**

The Chargee may distrain for arrears of any portion of the Principal Amount, Interest or any other amounts due and unpaid hereunder. The Chargor waives all rights to claim exemption and confirms that there is no limit in the amount for which the Chargee may distrain.

**16. CHARGE NOT A CHARGE IN POSSESSION**

It is agreed that the Chargee, in exercising any of its rights under this Charge, shall be deemed not to be a chargee in possession or a mortgagee in possession of the Property.

**17. LEASES AND SPECIFIC ASSIGNMENTS OF LEASES**

If the Chargor intends on leasing any party of the Property, the Chargee must approve the prospective tenant and its intended use. The Chargee may require, in its sole discretion, a statutory declaration, signed by such prospective tenant, of its intended use of the Property. As further security for this Charge, the Chargor covenant and agree to grant to the Chargee upon thirty (30) days prior written notice from the Chargee to the Chargor, a specific assignment of any lease or leases of part or all of the Property comprising the security of this Charge.

**18. ADDITIONAL SECURITY**

In the event that the Chargee, in addition to the Property, holds or shall hold, in the future, further security on account of the Principal Amount, it is agreed that no single or partial exercise of any of the Chargee's powers under this Charge or any of such further security (this Charge and any such further security are hereinafter together referred to as the "Security"), shall preclude other and further exercise of any other right, power or remedy pursuant to the Security. The Chargee shall at all times have the right to proceed against all, any or any portion of the Security in such order and in such a manner as the Chargee shall, in the Chargee's sole and unfettered discretion, deem fit without waiving any rights which the Chargee might have with respect to the Security and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor under the remaining Security.

**19. FINANCIAL STATEMENTS**

Until repayment of the Loan, the Chargor shall supply the Chargee with such updated information relating to the Project or condition precedent requirements as the Chargee may request from time to time. Such information shall be provided to the Chargee within 14 days from the date of the Chargee's request.

Until repayment of the Loan or upon request, the Chargor shall provide the Chargee within 120 days after the end of each calendar year, if applicable:

- (a) notice to reader financial statements of the Chargor, including a balance sheet and supporting schedules, a detailed statement of income and expenditures and supporting schedules, and a statement of change in cash flow;
- (b) updated net worth statements of the Covenantor;
- (b) notice to reader financial statements in respect of the Property, including a balance sheet and supporting schedules and a detailed statement of income and expenditures and supporting schedules;

- (c) a current rent roll for the Property containing such detail as may be required by the Chargee, if applicable; and
- (d) a budget for the Property for the next fiscal year, forecasting operating income, expenses and capital expenditures, if applicable.

The Chargor hereby authorizes the Chargee to obtain such further financial information requested by the Chargee.

## 20. CREDIT MANAGEMENT

The Chargor acknowledges that it is important to insulate the revenue stream from the Property in order to avoid claims by other projects, commitments or liabilities of the Chargor. If this is not possible, the Chargor agrees to provide the Chargee with a reasonable degree of revenue segregation through separate reporting. In this regard the Chargee will monitor the financial aspects of the Property, depending upon its financial status.

The Chargor covenants and agrees to provide the Chargee with standalone property reporting, isolating the Property's financial and operating accounts and information from that of other properties owned by the Chargor. The Chargor further covenants and agrees to provide the Chargee with separate financial statements for the Property. In the Event of Default by the Chargor under the Charge that is continuing beyond all applicable cure periods, or if the Chargor seeks relief under the Companies' Creditors Arrangement Act or other debtor relief legislation, the Chargee shall, if possible, be entitled to establish a separate project bank account for the Property.

As security for the aforesaid, an assignment of revenue (general assignment of rents) shall be registered both against title to the Property as well as under the applicable personal property registration system. The assignment of revenue shall take effect automatically, at the Chargee's option, if there is a default under the Charge. In addition, a general security agreement (or equivalent), shall be provided to the Chargee.

## 21. SIGNAGE

The Chargee shall have the right to provide a sign, at its cost, no greater than 2' x 3' advertising that the Project financing was provided by the Chargee. Such signage shall be erected by the developer of the Project or the Chargor, at its cost, in a prominent location on or about the hoarding or construction fence at a location to be approved by the Chargor and the Chargee, each acting reasonably.

## 22. PAYMENTS

Any payment made by the Chargor to the Chargee which is received by the Chargee on a non-business day of the Chargee or after 2:00 p.m. on any business day of the Chargee shall be deemed to have been received by the Chargee on the next business day of the Chargee.

## 23. OPTION TO PROVIDE CONSTRUCTION FINANCING

The Chargee shall have the first right to provide construction financing for the Project on terms mutually agreed to between the Chargee and the Chargor. Neither the Chargee nor the Chargor are required to provide, nor accept, the terms should a construction loan be offered by the Chargee.

## 24. TAXES

The Chargor covenants that, in addition to the monthly payments of principal and interest payable pursuant to this Charge, the Chargor shall also provide to the Chargee,

on the 1<sup>st</sup> day of each month, an amount stipulated by the Chargee sufficient to provide a fund to pay, in full, the annual taxes at the time that the first installments for regular tax bills for such taxes become due and payable. Until there is an Event of Default, the Chargee shall from time to time make payments to the taxing authority when taxes are due. Where the Chargee has made tax payments in excess of those collected, such excess amounts shall be payable on demand and shall be secured by the Charge and bear interest at the interest rate under the Charge. After an Event of Default, the Chargee may, at its sole option, pay taxes with respect to the Property and such payments will be added to the principal balance of the Charge. The Chargee reserves the right to adjust, from time to time, the estimated monthly tax amount payable, based on taxes actually levied against the Property.

#### **25. MAJOR ALTERATIONS**

Any major changes, additions and/or alterations contemplated to the Property (occurring after the completion of the initial renovation), including major changes in use of the Property and for proposed use of the Property must receive the Chargee's written consent, such consent not to be unreasonably withheld, prior to the commencement of the changes, additions and/or alterations. If the Chargor changes and/or alters the Property without the prior written consent of the Chargee being obtained, then the Chargee may, at its sole option, declare forthwith due and payable the entire balance of the unpaid principal together with the accrued interest due thereon. The Chargor will provide reasonable notice to the Chargee of any anticipated or impending transaction which would require the consent of the Chargee under this Section together with such reasonable information as the Chargee may require to determine whether or not to grant its consent thereto.

#### **26. CONSENT TO DISCLOSURE**

The Chargor and Covenantor consent to the disclosure by the Chargee to any such perspective assignee/participant of all information and documents regarding the Loan, the Chargor and Covenantor within the possession or control of the Chargee.

#### **27. RECEIVER**

Notwithstanding anything herein contained, it is declared and agreed that any time and from time to time when there shall be an Event of Default, the Chargee may, upon ten (5) business days written notice to the Chargor to cure such default, and thereafter at such time and from time to time and with or without entry into possession of the Property, or any part thereof, by instrument in writing appoint any person, whether an officer or officers or an employee or employees of the Chargee or not, to be a receiver (which term as used herein includes a receiver manager and also includes the plural as well as the singular) of the Property, or any part thereof, and of the rents and profits thereof, and with or without security, and may from time to time by similar writing remove any receiver and appoint another in his stead, and that, in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor, but no such appointment shall be revocable by the Chargor. Upon the appointment of any such receiver from time to time the following provisions shall apply:

- (a) Every such receiver shall have unlimited access to the Property as agent and attorney for the Chargor (which right of access shall not be revocable by the Chargor) and shall have full power and unlimited authority to:
  - (i) collect the rents and profits from tenancies whether created before or after these presents;
  - (ii) rent any portion of the Property which may become vacant on such terms and conditions as he considers advisable and enter into and execute leases, accept surrenders and terminate lease;

(iii) complete the construction of any building or buildings or other erections or improvements on the Property left by the Chargor in an unfinished state or award the same to others to complete and purchase, repair and maintain any personal property including, without limitation, appliances and equipment, necessary or desirable to render the premises operable or rentable, and take possession of and use or permit others to use all or any part of the Chargor's materials, supplies, plans, tools, equipment (including appliances) and property of every kind and description;

(iv) manage, operate, repair, alter or extend the Property or any part thereof.

The Chargor undertakes to ratify and confirm whatever any such receiver may do in the Property.

(b) The Chargee may at its discretion vest the receiver with all or any of the rights and powers of the Chargee.

(c) The Chargee may fix the reasonable remuneration of the receiver who shall be entitled to deduct the same out of the revenue or the sale proceeds of the Property.

(d) Every such receiver shall be deemed the agent or attorney of the Chargor and, in any event, the agent of the Chargee and the Chargee shall not be responsible for his acts or omissions except if as a result of gross negligence or willful misconduct.

(e) The appointment of any such receiver by the Chargee shall not result in or create any liability or obligation on the part of the Chargee to the receiver or to the Chargor or to any other person and no appointment or removal of a receiver and no actions of a receiver shall constitute the Chargee a Chargee in possession of the Property.

(f) No such receiver shall be liable to the Chargor to account for monies other than monies actually received by him in respect of the Property, or any part thereof, and out of such monies so received every such receiver shall, in the following order, pay:

(i) his remuneration aforesaid;

(ii) all costs and expenses of every nature and kind incurred by him in connection with the exercise of his powers and authority hereby conferred;

(iii) interest, principal and other money which may, from time to time, be or become charged upon the Property in priority to these presents, including taxes;

(iv) to the Chargee all interest, principal and other monies due hereunder to be paid in such order as the Chargee in its discretion shall determine;

(v) and thereafter, every such receiver shall be accountable to the Chargor for any surplus.

The remuneration and expenses of the receiver shall be paid by the Chargor on demand and shall be a charge on the Property and shall bear interest from the date of demand at the same rate as applies to the principal hereby secured.

(g) Save as to claims for accounting under clause (f) of this paragraph, the Chargor hereby releases and discharges any such receiver from every claim of every nature, whether sounding in damages or not which may arise or be caused to the Chargor or any person claiming through or under him by reason or as a result of



anything done by such receiver unless such claim be the direct and proximate result of dishonesty or fraud or gross negligence.

- (h) The Chargee may, at any time and from time to time, terminate any such receivership by notice in writing to the Chargor and to any such receiver.
- (i) The statutory declaration of an officer of the Chargee as to default under the provisions of these presents and as to the due appointment of the receiver pursuant to the terms hereof shall be sufficient proof thereof for the purposes of any person dealing with a receiver who is ostensibly exercising powers herein provided for and such dealing shall be deemed, as regards such person, to be valid and effectual.
- (j) The rights and powers conferred herein in respect of the receiver are supplemental to and not in substitution of any other rights and powers which the Chargee may have.

#### **28. CRIMINAL RATE OF INTEREST**

Notwithstanding the provisions of this Charge or in any agreement, instrument or other document held by the Chargee in connection with the Charge, in no event shall aggregate "interest" (as that term is defined in Section 347 of the Criminal Code (Canada)) exceed the effective annual rate of interest on the "credit advanced" (as defined therein) lawfully permitted under the Section. The effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices over the term of the Charge, and in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries selected by the Chargee shall be conclusive for the purposes of such determination.

#### **29. NEGATIVE COVENANTS OF THE CHARGOR**

The Chargor covenants that, without the Chargee's prior written consent, which consent may not be unreasonably withheld, it shall not:

- (a) enter into any shareholder loans with any shareholder or unitholder of the Chargor;
- (b) pay management fees to the Chargor or Covenantor; or
- (c) distribute dividends of any kind (including, but not limited to, dividends, loans or interest on shareholders loans, if any) to any shareholder of the Chargor or related party.

The Project may be subdivided or condominiumized only with the prior written consent of the Chargee, which consent shall not be unreasonably withheld may be withheld by the Chargee.

#### **30. VALIDITY OF PROVISIONS**

If any provision of this Charge is held to any extent invalid or unenforceable, the remainder of this Charge shall not be affected and shall remain valid and enforceable.

#### **31. TIME OF THE ESSENCE**

Time shall be of the essence in all matters relating to this Charge.

#### **32. INTERPRETATION AND HEADINGS**

Wherever in this Charge the singular or masculine is used, the same shall be construed as meaning the plural or the feminine or the neuter where the context or the parties hereto so require. The headings do not form part of this Charge and have been inserted for convenience of reference only.

### 33. INTEREST RESERVE

On closing of the Loan, an interest reserve in the amount of \$265,000.00 (the "**Interest Reserve**") will be deducted from the amount of the initial advance of the Loan and placed in a Chargee controlled escrow account and utilized to make monthly interest payments as required under the Loan to fund the last six (6) months of Interest payments under the Loan. All interest earned from time to time on the Interest Reserve held by the Chargee will accrue to the benefit of the Chargor. The Chargor acknowledges that the Interest Reserve has been fully advanced and shall bear interest at the Interest Rate. The Interest Reserve, together with Interest earned thereon, are hereby pledged by the Chargor to the Chargee as security for the Loan. To the extent that the Interest Reserve has been depleted at any time during the Term of the Loan, as may be extended, the Chargor and Covenantor undertake to immediately replenish the Interest Reserve by an amount required to service the Loan to the Balance Due Date. Failure to do so shall constitute an Event of Default hereunder. If there is an Event of Default the Chargee shall utilize and apply all or any part of the Interest Reserve toward the payment of Principal, Interest, costs or other monies owing under the Loan in the Chargee's sole discretion.

### 34. SUBDIVISION OR CONDOMINIUMIZATION

The Chargor acknowledges that the Property may not be subdivided or condominiumized without the prior written consent of the Chargee, which consent may not be unreasonably withheld by the Chargee if the Chargor is proceeding with the Project.

### 34. OVER HOLDING FEE

If the Loan is not repaid in full on or before the Balance Due Date, the Chargor shall be required to pay to the Chargee an Over Holding Fee, in addition to all other rates, fees and costs to be paid to the Chargee by the Chargor pursuant to the Commitment. More particularly, this fee shall be earned by and payable to the Chargee monthly, in advance, on the first business day of each month and shall be payable at the rate of 0.25% per month, or part thereof, multiplied by the then outstanding Loan Amount (the "**Overholding Fee**"). The Chargor hereby acknowledges that the Over Holding Fee does not constitute an extension of the Loan. If the Loan is not repaid in full by the Balance Due Date, the same shall constitute default by the Chargor under the Commitment and security documents notwithstanding payment of the Over Holding Fee. The Chargor further acknowledges that the Chargee, at its option may add the Over Holding Fee to the outstanding principal balance of the Loan and the security for the Loan also secures the Over Holding Fee.





**Land Registration Reform Act**  
**SET OF STANDARD CHARGE TERMS**  
 (Electronic Filing)

Filed by  
 Dye & Durham Co. Inc.

Filing Date: November 3, 2000

Filing number: 200033

*The following Set of Standard Charge Terms shall be applicable to documents registered in electronic format under Part III of the Land Registration Reform Act, R.S.O. 1990, c. L4 as amended (the "Land Registration Reform Act") and shall be deemed to be included in every electronically registered charge in which this Set of Standard Charge Terms is referred to by its filing number, as provided in Section 9 of the Land Registration Reform Act, except to the extent that the provisions of this Set of Standard Charge Terms are modified by additions, amendments or deletions in the schedule. Any charge in an electronic format of which this Set of Standard Charge Terms forms a part by reference to the above-noted filing number in such charge shall hereinafter be referred to as the "Charge".*

*Exclusion of Statutory Covenants*

1. The implied covenants deemed to be included in a charge under subsection 7(1) of the *Land Registration Reform Act* as amended or re-enacted are excluded from the Charge.

*Right to Charge the Land*

2. The Chargor now has good right, full power and lawful and absolute authority to charge the land and to give the Charge to the Chargee upon the covenants contained in the Charge.

*No Act to Encumber*

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

*Good Title in Fee Simple*

4. The Chargor, at the time of the delivery for registration of the Charge, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the land and the premises described in the Charge and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisos, conditions or any other matter or thing to alter, charge, change, encumber or defeat the same, except those contained in the original grant thereof from the Crown.

*Promise to Pay and Perform*

5. The Chargor will pay or cause to be paid to the Chargee the full principal amount and interest secured by the Charge in the manner of payment provided by the Charge, without any deduction or abatement, and shall do, observe, perform, fulfill and keep all the provisions, covenants, agreements and stipulations contained in the Charge and shall pay as they fall due all taxes, rates, levies, charges, assessments, utility and heating charges, municipal, local, parliamentary and otherwise which now are or may hereafter be imposed, charged or levied upon the land and when required shall produce for the Chargee receipts evidencing payment of the same.

*Interest After Default*

6. In case default shall be made in payment of any sum to become due for interest at the time provided for payment in the Charge, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, and both before and after default and judgement, shall bear interest at the rate provided for in the Charge. In case the interest and compound interest are not paid within the interest calculation period provided in the Charge from the time of default a rest shall be made, and compound interest at the rate provided for in the Charge shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the land.

*No Obligation to Advance*

7. Neither the preparation, execution or registration of the Charge shall bind the Chargee to advance the principal amount secured, nor shall the advance of a part of the principal amount secured bind the Chargee to advance any unadvanced portion thereof, but nevertheless the security in the land shall take effect forthwith upon delivery for registration of the Charge by the Chargor. The expenses of the examination of the title and of the Charge and valuation are to be secured by the Charge in the event of the whole or any balance of the principal amount not being advanced, the same to be charged hereby upon the land, and shall be, without demand therefor, payable forthwith with interest at the rate provided for in the Charge, and in default the Chargee's power of sale hereby given, and all other remedies hereunder, shall be exercisable.

*Costs Added to Principal*

8. The Chargee may pay all premiums of insurance and all taxes, rates, levies, charges, assessments, utility and heating charges which shall from time to time fall due and be unpaid in respect of the land, and that such payments, together with all costs, charges, legal fees (as between solicitor and client) and expenses which may be incurred in taking, recovering and keeping possession of the land and of negotiating the Charge, investigating title, and registering the Charge and other necessary deeds, and generally in any other proceedings taken in connection with or to realize upon the security given in the Charge (including legal fees and real estate commissions and other costs incurred in leasing or selling the land or in exercising the power of entering, lease and sale contained in the Charge) shall be, with interest at the rate provided for in the Charge, a charge upon the land in favour of the Chargee pursuant to the terms of the Charge and the Chargee may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the land, which payments with interest at the rate provided for in the Charge shall likewise be a charge upon the land in favour of the Chargee. Provided, and it is hereby further agreed, that all amounts paid by the Chargee as aforesaid shall be added to the principal amount secured by the Charge and shall be payable forthwith with interest at the rate provided for in the Charge, and on default all sums secured by the Charge shall immediately become due and payable at the option of the Chargee, and all powers in the Charge conferred shall become exercisable.

*Power of Sale*

9. The Chargee on default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice in writing given to the Chargor, enter on and lease the land or sell the land. Such notice shall be given to such persons and in such manner and form and within such time as provided in the *Mortgages Act*. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable, it is agreed that notice may be effectually given by leaving it with a grown-up person on the land, if occupied, or by placing it on the land if unoccupied, or at the option of the Chargee, by mailing it in a registered letter addressed to the Chargor at his last known address, or by publishing it once in a newspaper published in the county or district in which the land is situate; and such notice shall be sufficient although not addressed to any person or persons by name or designation; and notwithstanding that any person to be affected thereby may be unknown, unascertained or under disability. Provided further, that in case default be made in the payment of the principal amount or interest or any part thereof and such default continues for two months after any payment of either falls due then the Chargee may exercise the foregoing powers of entering, leasing or selling or any of them without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such persons and in such manner and form and within such time as so required by law. It is hereby further agreed that the whole or any part or parts of the land may be sold by public auction or private contract, or partly



one or partly the other; and that the proceeds of any sale hereunder may be applied first in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the land or by reason of non-payment or procuring payment of monies, secured by the Charge or otherwise, and secondly in payment of all amounts of principal and interest owing under the Charge; and if any surplus shall remain after fully satisfying the claims of the Chargee as aforesaid same shall be paid as required by law. The Chargee may sell any of the land on such terms as to credit and otherwise as shall appear to him most advantageous and for such prices as can reasonably be obtained therefor and may make any stipulations as to title or evidence or commencement of title or otherwise which he shall deem proper, and may buy in or rescind or vary any contract for the sale of the whole or any part of the land and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as he shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder.

- Quiet Possession* 10. Upon default in payment of principal and interest under the Charge or in performance of any of the terms or conditions hereof, the Chargee may enter into and take possession of the land hereby charged and where the Chargee so enters on and takes possession or enters on and takes possession of the land on default as described in paragraph 9 herein the Chargee shall enter into, have, hold, use, occupy, possess and enjoy the land without the let, suit, hindrance, interruption or denial of the Chargor or any other person or persons whomsoever.
- Right to Distrain* 11. If the Chargor shall make default in payment of any part of the interest payable under the Charge at any of the dates or times fixed for the payment thereof, it shall be lawful for the Chargee to distrain therefor upon the land or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise of the land, so much of such interest as shall, from time to time, be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent. Provided that the Chargee may distrain for arrears of principal in the same manner as if the same were arrears of interest.
- Further Assurances* 12. From and after default in the payment of the principal amount secured by the Charge or the interest thereon or any part of such principal or interest or in the doing, observing, performing, fulfilling or keeping of some one or more of the covenants set forth in the Charge then and in every such case the Chargor and all and every other person whosoever having, or lawfully claiming, or who shall have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the land shall, from time to time, and at all times thereafter, at the proper costs and charges of the Chargor make, do, suffer, execute, deliver, authorize and register, or cause or procure to be made, done, suffered, executed, delivered, authorized and registered, all and every such further and other reasonable act or acts, deed or deeds, devises, conveyances and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the land unto the Chargee as by the Chargee or his solicitor shall or may be lawfully and reasonably devised, advised or required.
- Acceleration of Principal and Interest* 13. In default of the payment of the interest secured by the Charge the principal amount secured by the Charge shall, at the option of the Chargee, immediately become payable, and upon default of payment of instalments of principal promptly as the same mature, the balance of the principal and interest secured by the Charge shall, at the option of the Chargee, immediately become due and payable. The Chargee may in writing at any time or times after default waive such default and any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default.
- Unapproved Sale* 14. If the Chargor sells, transfers, disposes of, leases or otherwise deals with the land, the principal amount secured by the Charge shall, at the option of the Chargee, immediately become due and payable.
- Partial Releases* 15. The Chargee may at his discretion at all times release any part or parts of the land or any other security or any surety for the money secured under the Charge either with or without any sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the land or any person from the Charge or from any of the covenants contained in the Charge and without being accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee. It is agreed that every part or lot into which the land is or may hereafter be divided does and shall stand charged with the whole money secured under the Charge and no person shall have the right to require the mortgage monies to be apportioned.
- Obligation to Insure* 16. The Chargor will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Chargee, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Chargee. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Chargee, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Chargee. Evidence of continuation of all such insurance having been effected shall be produced to the Chargee at least fifteen (15) days before the expiration thereof; otherwise the Chargee may provide therefor and charge the premium paid and interest thereon at the rate provided for in the Charge to the Chargor and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Chargee may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Chargee and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Chargee therefor shall be payable forthwith by the Chargor with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Chargee as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.
- Obligation to Repair* 17. The Chargor will keep the land and the buildings, erections and improvements thereon, in good condition and repair according to the nature and description thereof respectively, and the Chargee may, whenever he deems necessary, by his agent enter upon and inspect the land and make such repairs as he deems necessary, and the reasonable cost of such inspection and repairs with interest at the rate provided for in the Charge shall be added to the principal amount and be payable forthwith and be a charge upon the land prior to all claims thereon subsequent to the Charge. If the Chargor shall neglect to keep the buildings, erections and improvements in good condition and repair, or commits or permits any act of waste on the land (as to which the Chargee shall be sole judge) or makes default as to any of the covenants, provisos, agreements or conditions contained in the Charge or in any charge to which this Charge is subject, all monies secured by the Charge shall, at the option of the Chargee, forthwith become due and payable, and in default of payment of same with interest as in the case of payment



before maturity the powers of entering upon and leasing or selling hereby given and all other remedies herein contained may be exercised forthwith.

- Building Charge** 18. If any of the principal amount to be advanced under the Charge is to be used to finance an improvement on the land, the Chargor must so inform the Chargee in writing immediately and before any advances are made under the Charge. The Chargor must also provide the Chargee immediately with copies of all contracts and subcontracts relating to the improvement and any amendments to them. The Chargor agrees that any improvement shall be made only according to contracts, plans and specifications approved in writing by the Chargee. The Chargor shall complete all such improvements as quickly as possible and provide the Chargee with proof of payment of all contracts from time to time as the Chargee requires. The Chargee shall make advances (part payments of the principal amount) to the Chargor based on the progress of the improvement, until either completion and occupation or sale of the land. The Chargee shall determine whether or not any advances will be made and when they will be made. Whatever the purpose of the Charge may be, the Chargee may at its option hold back funds from advances until the Chargee is satisfied that the Chargor has complied with the holdback provisions of the *Construction Lien Act* as amended or re-enacted. The Chargor authorizes the Chargee to provide information about the Charge to any person claiming a construction lien on the land.
- Extensions not to Prejudice** 19. No extension of time given by the Chargee to the Chargor or anyone claiming under him, or any other dealing by the Chargee with the owner of the land or of any part thereof, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other person liable for the payment of the money secured by the Charge, and the Charge may be renewed by an agreement in writing at maturity for any term with or without an increased rate of interest notwithstanding that there may be subsequent encumbrances. It shall not be necessary to deliver for registration any such agreement in order to retain priority for the Charge so altered over any instrument delivered for registration subsequent to the Charge. Provided that nothing contained in this paragraph shall confer any right of renewal upon the Chargor.
- No Merger of Covenants** 20. The taking of a judgment or judgments on any of the covenants herein shall not operate as a merger of the covenants or affect the Chargee's right to interest at the rate and times provided for in the Charge; and further that any judgment shall provide that interest thereon shall be computed at the same rate and in the same manner as provided in the Charge until the judgment shall have been fully paid and satisfied.
- Change in Status** 21. Immediately after any change or happening affecting any of the following, namely: (a) the spousal status of the Chargor, (b) the qualification of the land as a family residence within the meaning of Part II of the *Family Law Act*, and (c) the legal title or beneficial ownership of the land, the Chargor will advise the Chargee accordingly and furnish the Chargee with full particulars thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner or owners for the time being of the land and of any spouse who is not an owner but who has a right of possession in the land by virtue of Section 19 of the *Family Law Act*. In furtherance of such intention, the Chargor covenants and agrees to furnish the Chargee with such evidence in connection with any of (a), (b) and (c) above as the Chargee may from time to time request.
- Condominium Provisions** 22. If the Charge is of land within a condominium registered pursuant to the *Condominium Act* (the "Act") the following provisions shall apply. The Chargor will comply with the Act, and with the declaration, by-laws and rules of the condominium corporation (the "corporation") relating to the Chargor's unit (the "unit") and provide the Chargee with proof of compliance from time to time as the Chargee may request. The Chargor will pay the common expenses for the unit to the corporation on the due dates. If the Chargee decides to collect the Chargor's contribution towards the common expenses from the Chargor, the Chargor will pay the same to the Chargee upon being so notified. The Chargee is authorized to accept a statement which appears to be issued by the corporation as conclusive evidence for the purpose of establishing the amounts of the common expenses and the dates those amounts are due. The Chargor, upon notice from the Chargee, will forward to the Chargee any notices, assessments, by-laws, rules and financial statements of the corporation that the Chargor receives or is entitled to receive from the corporation. The Chargor will maintain all improvements made to the unit and repair them after damage. In addition to the insurance which the corporation must obtain, the Chargor shall insure the unit against destruction or damage by fire and other perils usually covered in fire insurance policies and against such other perils as the Chargee requires for its full replacement cost (the maximum amount for which it can be insured). The insurance company and the terms of the policy shall be reasonably satisfactory to the Chargee. This provision supersedes the provisions of paragraph 16 herein. The Chargor irrevocably authorizes the Chargee to exercise the Chargor's rights under the Act to vote, consent and dissent.
- Discharge** 23. The Chargee shall have a reasonable time after payment in full of the amounts secured by the Charge to deliver for registration a discharge or if so requested and if required by law to do so, an assignment of the Charge and all legal and other expenses for preparation, execution and registration, as applicable to such discharge or assignment shall be paid by the Chargor.
- Guarantee** 24. Each party named in the Charge as a Guarantor hereby agrees with the Chargee as follows:
- (a) In consideration of the Chargee advancing all or part of the Principal Amount to the Chargor, and in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the Chargee to the Guarantor (the receipt and sufficiency whereof are hereby acknowledged), the Guarantor does hereby absolutely and unconditionally guarantee to the Chargee, and its successors, the due and punctual payment of all principal moneys, interest and other moneys owing on the security of the Charge and observance and performance of the covenants, agreements, terms and conditions herein contained by the Chargor, and the Guarantor, for himself and his successors, covenants with the Chargee that, if the Chargor shall at any time make default in the due and punctual payment of any moneys payable hereunder, the Guarantor will pay all such moneys to the Chargee without any demand being required to be made.
  - (b) Although as between the Guarantor and the Chargor, the Guarantor is only surety for the payment by the Chargor of the moneys hereby guaranteed, as between the Guarantor and the Chargee, the Guarantor shall be considered as primarily liable therefor and it is hereby further expressly declared that no release or releases of any portion or portions of the land; no indulgence shown by the Chargee in respect of any default by the Chargor or any successor thereof which may arise under the Charge; no extension or extensions granted by the Chargee to the Chargor or any successor thereof for payment of the moneys hereby secured or for the doing, observing or performing of any covenant, agreement, term or condition herein contained to be done, observed or performed by the Chargor or any successor thereof; no variation in or departure from the provisions of the Charge; no release of the Chargor or any other thing whatsoever whereby the Guarantor as surety only would or might have been released shall in any way modify, alter, vary or in any way prejudice the Chargee or affect the liability of the Guarantor in any way under this covenant, which shall continue and be binding on the Guarantor, and as well after as before maturity of the Charge and both before and after default and judgment, until the said moneys are fully paid and satisfied.
  - (c) Any payment by the Guarantor of any moneys under this guarantee shall not in any event be taken to affect

the liability of the Chargor for payment thereof but such liability shall remain unimpaired and enforceable by the Guarantor against the Chargor and the Guarantor shall, to the extent of any such payments made by him, in addition to all other remedies, be subrogated as against the Chargor to all the rights, privileges and powers to which the Chargee was entitled prior to payment by the Guarantor; provided, nevertheless, that the Guarantor shall not be entitled in any event to rank for payment against the lands in competition with the Chargee and shall not, unless and until the whole of the principal, interest and other moneys owing on the security of the Charge shall have been paid, be entitled to any rights or remedies whatsoever in subrogation to the Chargee.

- (d) All covenants, liabilities and obligations entered into or imposed hereunder upon the Guarantor shall be equally binding upon his successors. Where more than one party is named as a Guarantor all such covenants, liabilities and obligations shall be joint and several.
- (e) The Chargee may vary any agreement or arrangement with or release the Guarantor, or any one or more of the Guarantors if more than one party is named as Guarantor, and grant extensions of time or otherwise deal with the Guarantor and his successors without any consent on the part of the Chargor or any other Guarantor or any successor thereof.

**Severability** 25. It is agreed that in the event that at any time any provision of the Charge is illegal or invalid under or inconsistent with provisions of any applicable statute, regulation thereunder or other applicable law or would by reason of the provisions of any such statute, regulation or other applicable law render the Chargee unable to collect the amount of any loss sustained by it as a result of making the loan secured by the Charge which it would otherwise be able to collect under such statute, regulation or other applicable law then, such provision shall not apply and shall be construed so as not to apply to the extent that it is so illegal, invalid or inconsistent or would so render the Chargee unable to collect the amount of any such loss.

**Interpretation** 26. In construing these covenants the words "Charge", "Chargee", "Chargor", "land" and "successor" shall have the meanings assigned to them in Section 1 of the *Land Registration Reform Act* and the words "Chargor" and "Chargee" and the personal pronouns "he" and "his" relating thereto and used therewith, shall be read and construed as "Chargor" or "Chargors", "Chargee" or "Chargees", and "he", "she", "they" or "it", "his", "her", "their" or "its", respectively, as the number and gender of the parties referred to in each case require, and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted. And that all rights, advantages, privileges, immunities, powers and things hereby secured to the Chargor or Chargors, Chargee or Chargees, shall be equally secured to and exercisable by his, her, their or its heirs, executors, administrators and assigns, or successors and assigns, as the case may be. The word "successor" shall also include successors and assigns of corporations including amalgamated and continuing corporations. And that all covenants, liabilities and obligations entered into or imposed hereunder upon the Chargor or Chargors, Chargee or Chargees, shall be equally binding upon his, her, their or its heirs, executors, administrators and assigns, or successors and assigns, as the case may be, and that all such covenants and liabilities and obligations shall be joint and several.

**Paragraph headings** 27. The paragraph headings in these standard charge terms are inserted for convenience of reference only and are deemed not to form part of the Charge and are not to be considered in the construction or interpretation of the Charge or any part thereof.

**Date of Charge** 28. The Charge, unless otherwise specifically provided, shall be deemed to be dated as of the date of delivery for registration of the Charge.

**Effect of Delivery of Charge** 29. The delivery of the Charge for registration by direct electronic transfer shall have the same effect for all purposes as if such Charge were in written form, signed by the parties thereto and delivered to the Chargee. Each of the Chargor and, if applicable, the spouse of the Chargor and other party to the Charge agrees not to raise in any proceeding by the Chargee to enforce the Charge any want or lack of authority on the part of the person delivering the Charge for registration to do so.

DATED this                      day of                      (year)



# **TAB E**

**THIS IS EXHIBIT "E"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



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A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.

## GENERAL SECURITY AGREEMENT

### 1. SECURITY INTEREST

- (a) For value received, Highyon Development No. 118 LP (the "**Debtor**"), hereby grants to Vector Financial Services Limited (the "**Lender**"), by way of assignment and transfer, a security interest (the "**Security Interest**") in the undertaking of the Debtor and in all Goods (including all parts, accessories, special tools, additions and accessions thereto), Chattel Paper, Documents of Title (whether negotiable or not), Instruments, Accounts, Intangibles, Money and Securities now owned or hereafter owned or acquired by or on behalf of the Debtor relating to the Property described in Schedule "A" annexed hereto (including such as may be returned to or repossessed by the Debtor) and in all Proceeds and renewals thereof, accretions thereto and substitutions therefor (hereinafter collectively called "**Collateral**"), including without limitation, all of the following now owned or hereafter owned or acquired by or on behalf of the Debtor:
- (i) all present and future equipment of the Debtor, including all machinery, appliances, fixtures, plant, tools, furniture, vehicles of any kind or description, all spare parts, accessories installed in or affixed or attached to any of the foregoing, and all drawings, specifications, plans and manuals relating thereto ("**Equipment**");
  - (ii) all present and future inventory of the Debtor, including all raw materials, materials used or consumed in the business or profession of the Debtor, work-in-progress, finished goods, goods used for packing, materials used in the business of the Debtor not intended for sale, and goods acquired or held for sale or furnished or to be furnished under contracts of rental or service ("**Inventory**");
  - (iii) all book accounts and book debts and generally all accounts, receivables, debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, owing or accruing or growing due to or owned by or which may hereafter become due, owing or accruing or growing due to or owned by the Debtor ("**Accounts**");
  - (iv) all deeds, documents, writings, papers, books of account and other books relating to or being records of Debts, Chattel Paper or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable;
  - (v) all present and future intangible personal property of the Debtor, including all contract rights, licences, goodwill, patents, trade marks, copyrights and other industrial property, and all other choses in action of the Debtor of every kind, whether due at the present time or hereafter to become due or owing ("**Intangibles**");
  - (vi) all monies other than trust monies lawfully belonging to others;

- (vii) all present and future securities held by the Debtor, including shares, options, rights, warrants, joint venture interests, interests in limited partnerships, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Debtor in property or in an enterprise or which constitute evidence of an obligation of the issuer; and including an uncertificated security within the meaning of Part VI (Investment Securities) of the Business Corporations Act, 1982, (Ontario) and all substitutions therefor and dividends and income derived therefrom ("Securities");
  - (viii) all Personal Property now in or in the future located at the premises of the Debtor described in Schedule "A" annexed or described in any schedule hereafter annexed or in any subsequent security agreement related to the Indebtedness of the Debtor and belonging to the Debtor.
- (b) The Security Interest granted hereby shall not extend or apply to and Collateral shall not include the last day of the term of any lease or agreement therefor but upon the enforcement of the Security Interest the Debtor shall stand possessed of such term.
  - (c) The terms "Goods", "Chattel Paper", "Documents of Title", "Equipment", "Consumer Goods", "Accounts", "Money", "Instruments", "Intangibles", "Securities", "Proceeds", "Inventory", "Personal Property", and "Accession" whenever used herein shall be interpreted pursuant to their respective meanings when used in the Personal Property Security Act (Ontario), as amended from time to time (herein referred to as the "P.P.S.A."). Provided always that the term "Goods" when used herein shall not include "consumer goods" of the Debtor as that term is defined in the P.P.S.A. Any reference herein to "Collateral" shall, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof". The term "Proceeds", whenever used herein and interpreted as above shall, by way of example, include trade-ins, equipment, cash, bank accounts, notes, chattel paper, goods, contract rights, accounts and any other personal property or obligation received when such collateral or proceeds are sold, exchanged, collected or otherwise disposed of.

## 2. INDEBTEDNESS SECURED

The Security Interest granted hereby secures payment and satisfaction of any and all obligations, indebtedness and liability of the Debtor to the Lender arising out of a certain mortgage delivered by the Debtor to the Lender for the principal sum of FIVE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$5,550,000.00) and given in accordance with a loan proposal dated August 4, 2017 and a commitment letter dated September 15th, 2017, as it may be amended from time to time (the "**Commitment Letter**"), which indebtedness shall be fully satisfied upon payment in full of the said mortgage (hereinafter collectively called the "**Indebtedness**").

## 3. REPRESENTATIONS AND WARRANTIES OF DEBTOR

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

- (a) The Collateral is genuine and owned both legally and beneficially by the Debtor free of all interests, mortgages, liens, claims, charges or other encumbrances (hereinafter collectively called "Encumbrances"), save for the Security Interest and those

Encumbrances shown on Schedule "B" or hereafter approved in writing by the Lender, prior to their creation or assumption;

- (b) Each Account, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "**Account Debtor**"), and the amount represented by the Debtor to the Lender from time to time as owing by each Account Debtor or by all Account Debtors is owing except for normal cash discounts where applicable, and the Debtor will use its best efforts to insure that no Account Debtor will have any defence, set off, claim or counterclaim against the Debtor which can be asserted against the Lender, whether in any proceeding to enforce Collateral or otherwise; and
- (c) The location specified in Schedule "A" as to business operations, the location of Collateral and records is accurate and complete.

#### 4. COVENANTS OF THE DEBTOR

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

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

schedules hereto) as may be reasonably requested by the Lender of or with respect to Collateral in order to give effect to these presents and to pay all reasonable costs for searches and filings in connection therewith;

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

## **5. USE AND VERIFICATION OF COLLATERAL**

Subject to compliance with the Debtor's covenants herein and Clause 6 hereof, the Debtor may, until the occurrence of an Event of Default (as defined in the Charge), possess, operate, use, enjoy and deal with Collateral in the ordinary course of the Debtor's business in any manner not inconsistent with the provisions hereof; provided always that the Lender shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner the Lender may consider appropriate and the Debtor agrees to furnish all assistance and information and to perform all such acts as the Lender may reasonably request in connection therewith and for such purpose to grant to the Lender or its agents access, upon forty-eight (48)



hours' notice, to all places where Collateral may be located and to the premises described in Schedule "A".

6. **COLLECTION OF DEBTS**

Before or after an Event of Default (as hereinafter defined) under this Security Agreement, if the Lender believes that its security is impaired, the Lender may notify all or any Account Debtors of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to the Lender. The Debtor acknowledges that any payments on or other proceeds of Collateral received by the Debtor from Account Debtors, whether on or before or after an Event of Default under this Security Agreement, shall be received and held by the Debtor in trust for the Lender and shall be turned over to the Lender upon request if the Lender believes that its security is impaired.

7. **DISPOSITION OF MONIES**

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

8. **EVENTS OF DEFAULT**

Has the meaning ascribed to it in the Charge in favour of the Lender.

9. **REMEDIES**

- (a) Upon an Event of Default, the Lender may appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Lender or not, to be a receiver or receivers (hereinafter called a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor and not the Lender and the Lender shall not be in any way responsible for any misconduct, negligence, or non-feasance on the part of any such Receiver, his servants, agents or employees. Subject to the provisions of the instruments appointing him, any such Receiver shall have the power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of the Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including the Debtor, enter upon, use and occupy all premises owned or occupied by the Debtor, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on the Debtor's business or otherwise, as such Receiver shall, in his discretion, determine. Except as may be otherwise directed by the Lender, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to the Lender. Every such Receiver may, in the discretion of the Lender, be vested with all or any of the rights and powers of the Lender.



- (b) Upon an Event of Default, the Lender may, either directly or indirectly or through its agents or nominees, exercise any or all of the powers and rights given to a Receiver by virtue of the foregoing subclause (a).
- (c) The Lender may take possession of, collect, demand, sue on, enforce, recover and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof and, upon an Event of Default, the Lender may sell, lease or otherwise dispose of Collateral in such manner, at such time or times and place or places, for such consideration and upon such terms and conditions as to the Lender may deem reasonable.
- (d) In addition to those rights granted herein and in any other agreement now or hereafter in effect between the Debtor and the Lender and in addition to any other rights the Lender may have at law or in equity, the Lender shall have, both before and after an Event of Default, all rights and remedies of a secured party under the P.P.S.A. provided always, that the Lender shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes. Furthermore, the Lender shall have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper whether Collateral or proceeds and whether or not in the Lender's possession and shall not be liable or accountable for failure to do so.
- (e) The Debtor acknowledges that the Lender or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and the Debtor agrees upon request from the Lender or any such Receiver to assemble and deliver possession of Collateral at such place or places as directed if practicable.
- (f) The Debtor agrees to pay all costs, charges and expenses reasonably incurred by the Lender or any Receiver appointed by it, whether directly or indirectly for services rendered (including reasonable solicitors and auditors costs and other legal expenses and Receiver remuneration), in operating the Debtor's accounts, in preparing or enforcing this Security Agreement, taking custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses, together with any monies owing as a result of any borrowing by the Lender or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.
- (g) The Lender will give the Debtor such notice, if any, of the date, time and place of any public sale or of the date after which any private disposition of Collateral is to be made, as may be required by the P.P.S.A.
- (h) Upon failure of the Debtor to have its premises professionally managed in accordance with Clause 4(j) hereof, the Lender may, but shall not be obligated to appoint such professional manager or managers, as it may deem necessary in its sole discretion, to manage such premises at the sole expense of the Debtor.

- (a) The Debtor hereby authorizes the Lender to file such financing statements and other documents and do such acts, matters and things (including completing and adding schedules hereto identifying Collateral or any permitted encumbrances affecting Collateral) as the Lender may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest, and the Debtor hereby irrevocably constitutes and appoints the Lender the true and lawful attorney of the Debtor, with full power of substitution, to do any of the foregoing in the name of the Debtor whenever and wherever it may be deemed necessary or expedient.
- (b) Upon the Debtor's failure to perform any of its duties hereunder, the Lender may, but shall not be obligated to, perform any or all such duties, and the Debtor shall pay to the Lender, forthwith upon written demand therefor, an amount equal to the expense incurred by the Lender in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate per annum set forth in the said mortgage.
- (c) The Lender may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with the Debtor, sureties and others and with Collateral and other security as the Lender may see fit without prejudice to the liability of the Debtor or the Lender's right to hold and realize the Security Interest. Furthermore, the Lender may demand, collect and sue on Collateral in either the Debtor's or the Lender's name on any and all cheques, commercial paper, and any other Instrument pertaining to or constituting Collateral.
- (d) No delay or omission by the Lender in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Furthermore, the Lender may remedy any Event of Default by the Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent Event of Default by the Debtor. All rights and remedies of the Lender granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (e) The Debtor waives protest of any Instrument constituting Collateral at any time held by the Lender on which the Debtor is in any way liable and, subject to Clause 9(g) hereof, notice of any other action taken by the Lender.
- (f) This Security Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- (g) Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Security Agreement shall be made except by a Written Agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.
- (h) Subject to the requirements of Clauses 9(g) and 10(e) hereof, whenever either party hereto is required or entitled to notify or direct the other or to make a demand or request upon that other,

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

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

11. **COPY OF AGREEMENT AND ATTACHMENT**

The Debtor hereby acknowledges receipt of a copy of this Security Agreement and that the parties do not intend any postponement of the attachment of the Security Interest to the Collateral.

***[Signature Page Follows]***

**IN WITNESS WHEREOF** the Debtor has executed this Security Agreement under the hand of its authorized signing officer(s) this 27 day of September, 2017.

**HIGHYON DEVELOPMENT NO. 118 LP BY ITS  
GENERAL PARTNER HIGHYON GP NO. 118 CORP.**

Per:



Name: Bing Pu

Title: Authorized Signatory

I have authority to bind the corporation.

**SCHEDULE "A"**

**Description of Land**

Municipal Address: 9113 & 9125 Bathurst Street, Richmond Hill, Ontario

Legal Description: Firstly:  
PT LT 12 PL 1960 VAUGHAN AS IN R430908; EXCEPT PT 6  
65R34243; TOWN OF RICHMOND HILL

Secondly:  
PT LTS 11 & 12 PL 1960 (VGN) PTS 1 & 2 65R30010 EXCEPT  
PTS 6 & 7 65R34155 & EXCEPT PT 7 65R34243 AND SAVE &  
EXCEPT PTS 2 & 3, ON 6535056; TOWN OF RICHMOND HILL

PIN: Firstly: 03215-1220 (LT)

Secondly: 03215-1223 (LT)

Registry Office: Land Titles Division of York (No.65)

**SCHEDULE "B"**

**Permitted Encumbrances**

NIL.

**TAB F**



**THIS IS EXHIBIT "F"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

**Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law,  
Expires May 18, 2021.**

LAND  
REGISTRY  
OFFICE #65

03215-1220 (LT)

PAGE 1 OF 2  
PREPARED FOR nahidislam  
ON 2020/02/26 AT 15:13:32

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

PROPERTY DESCRIPTION: PT LT 12 PL 1960 VAUGHAN AS IN R430908; EXCEPT PT 6 65R34243; TOWN OF RICHMOND HILL

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:

DIVISION FROM 03215-0408

PIN CREATION DATE:

2015/02/27

OWNERS' NAMES

HIGHYON GP NO.118 CORP.  
HIGHYON DEVELOPMENT NO. 118 LP

CAPACITY SHARE

GPAR  
FIRM

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 1999/02/22 **						
RH69583	1979/04/06	BYLAW				C
REMARKS: PLANNING ACT DEEMING NOT PLAN OF SUBDIVISION. AFFECTS ALL/PART VARIOUS LANDS (ADDED 9/6/98 BY J. SALTER DLR)						
65R21799	1999/10/04	PLAN REFERENCE				C
LT1431115	1999/12/01	NOTICE		RICHMOND HILL HYDRO-ELECTRIC COMMISSION		C
REMARKS: NOTICE OF CLAIM-RE: EASEMENT						
YR2257403	2015/02/19	DISCH OF CHARGE		ROYAL BANK OF CANADA		C
REMARKS: YR1848728. PARTIAL DISCHARGE BEING PT 6 65R34243						
YR2257404	2015/02/19	TRANSFER REL&ABAND	\$2	POWERSTREAM INC.	SCHWARTZ, ESTHER T.	C
REMARKS: LT1431115. PARTIAL RELEASE BEING PT 6 65R34243						
YR2739494	2017/09/29	TRANSFER	\$8,058,000	2465900 ONTARIO LIMITED	HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	C
REMARKS: PLANNING ACT STATEMENTS.						

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

NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND  
 REGISTRY  
 OFFICE #65

03215-1220 (LT)

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR2739495	2017/09/29	CHARGE PARTNERSHIP	\$5,550,000	HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	VECTOR FINANCIAL SERVICES LIMITED	C
YR2739496	2017/09/29	NO ASSGN RENT GEN <i>REMARKS: YR2739495</i>		HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	VECTOR FINANCIAL SERVICES LIMITED	C
YR2838164	2018/06/15	CHARGE PARTNERSHIP	\$425,000	HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	JADA, GEORGE NAIM	C
YR3017154	2019/10/04	NOTICE <i>REMARKS: YR2739495</i>		HIGHYON GP NO. 118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	VECTOR FINANCING SERVICES LIMITED	C

LAND  
REGISTRY  
OFFICE #65

03215-1223 (LT)

PAGE 1 OF 2  
PREPARED FOR nahidislam  
ON 2020/02/26 AT 15:12:44

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

PROPERTY DESCRIPTION: PT LTS 11 & 12 PL 1960 (VGN) PTS 1 & 2 65R30010 EXCEPT PTS 6 & 7 65R34155 & EXCEPT PT 7 65R34243 AND SAVE & EXCEPT PTS 2 & 3, ON 6535056; TOWN OF RICHMOND HILL

PROPERTY REMARKS: FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2007/05/23. PLANNING ACT CONSENT IN DOCUMENT YR2288066. PLANNING ACT CONSENT IN DOCUMENT YR2288186.

ESTATE/QUALIFIER: FEE SIMPLE  
LT ABSOLUTE PLUS

RECENTLY: DIVISION FROM 03215-1172

PIN CREATION DATE:  
2015/06/04

OWNERS' NAMES  
HIGHYON GP NO.118 CORP.  
HIGHYON DEVELOPMENT NO. 118 LP

CAPACITY SHARE  
GPAR  
FIRM

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**SUBJECT TO SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPHS 3 AND 14 AND *						
** PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **						
** TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **						
RH69583	1979/04/06	BYLAW				C
REMARKS: PLANNING ACT DEEMING NOT PLAN OF SUBDIVISION. AFFECTS ALL/PART VARIOUS LANDS (ADDED 9/6/98 BY J. SALTER DLR)						
R368811	1985/05/14	AGREEMENT			THE TOWN OF RICHMOND HILL	C
65R30010	2007/05/23	PLAN REFERENCE				C
YR988709	2007/05/23	APL ABSOLUTE TITLE		OWNER	FEDELE, PASQUALE FEDELE, LORENZA	C
REMARKS: YR870037						
65R35056	2014/07/09	PLAN REFERENCE				C
YR2283239	2015/04/28	NOTICE		FEDELE, PASQUALE FEDELE, LORENZA	THE CORPORATION OF THE TOWN OF RICHMOND HILL	C
YR2315260	2015/07/02	LR'S ORDER		LAND REGISTRAR - YORK REGION LRO		C
REMARKS: AMEND DESCRIPTION						
YR2739494	2017/09/29	TRANSFER	\$8,058,000	2465900 ONTARIO LIMITED	HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	C
REMARKS: PLANNING ACT STATEMENTS.						
YR2739495	2017/09/29	CHARGE PARTNERSHIP	\$5,550,000	HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	VECTOR FINANCIAL SERVICES LIMITED	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

03215-1223 (LT)

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR2739496	2017/09/29	NO ASSGN RENT GEN		HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	VECTOR FINANCIAL SERVICES LIMITED	C
	REMARKS: YR2739495					
YR2838164	2018/06/15	CHARGE PARTNERSHIP	\$425,000	HIGHYON GP NO.118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	JADA, GEORGE NAIM	C
YR3017154	2019/10/04	NOTICE		HIGHYON GP NO. 118 CORP. HIGHYON DEVELOPMENT NO. 118 LP	VECTOR FINANCING SERVICES LIMITED	C
	REMARKS: YR2739495					

**TAB G**

**THIS IS EXHIBIT "G"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.



RUN NUMBER : 057  
RUN DATE : 2020/02/26  
ID : 20200226145042.05

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 10758)

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

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : HIGHYON DEVELOPMENT NO. 118 LP

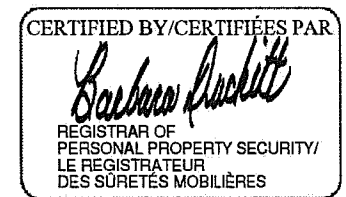
FILE CURRENCY : 25FEB 2020

ENQUIRY NUMBER 20200226145042.05 CONTAINS 4 PAGE(S), 1 FAMILY(IES).

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

GOWLING WLG (CANADA) LLP - TORONTO - HAYLEY ROBERTS  
1 FIRST CANADIAN PLACE  
TORONTO ON M5X 1G5

CONTINUED... 2



(crj5 06/2019)

Ontario 

RUN NUMBER : 057  
RUN DATE : 2020/02/26  
ID : 20200226145042.05

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 2  
( 10759)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : HIGHYON DEVELOPMENT NO. 118 LP  
FILE CURRENCY : 25FEB 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER  
732385422

01 CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
001 1 20170928 1101 1590 3194 P PPSA 4

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

03 NAME BUSINESS NAME HIGHYON DEVELOPMENT NO. 118 LP

04 ADDRESS 350 HIGHWAY 7 EAST, SUITE 310 RICHMOND HILL ON L4B 3N2 ONTARIO CORPORATION NO.

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

06 NAME BUSINESS NAME HIGHYON GP NO. 118 CORP.

07 ADDRESS 350 HIGHWAY 7 EAST, SUITE 310 RICHMOND HILL ON L4B 3N2 ONTARIO CORPORATION NO.

08 SECURED PARTY / LIEN CLAIMANT VECTOR FINANCIAL SERVICES LIMITED

09 ADDRESS 25 IMPERIAL STREET, SUITE 500 TORONTO ON M5P 1B9

COLLATERAL CLASSIFICATION

10 CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE  
X X X X

11 MOTOR YEAR MAKE MODEL V.I.N.

12 VEHICLE

13 GENERAL SECURITY DOCUMENTATION RELATING TO PROPERTY LOCATED AT 9113 & 9125

14 COLLATERAL BATHURST STREET, RICHMOND HILL, ONTARIO.

15 DESCRIPTION

16 REGISTERING CASSELS BROCK & BLACKWELL LLP (JFREEMAN #49004-26)

17 AGENT ADDRESS SUITE 2100, 40 KING STREET WEST TORONTO ON M5H 3C2

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

CONTINUED... 3

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Duckitt*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(cij1fu 06/2019)

RUN NUMBER : 057  
RUN DATE : 2020/02/26  
ID : 20200226145042.05

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 3  
( 10760)

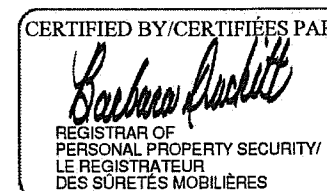
TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : HIGHYON DEVELOPMENT NO. 118 LP  
FILE CURRENCY : 25FEB 2020

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

CAUTION FILING	PAGE NO. OF	TOTAL PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER
01		001	1	20190503 1327 1590 5770	
21	RECORD REFERENCED	FILE NUMBER	732385422		
22		PAGE AMENDED	NO SPECIFIC PAGE AMENDED	CHANGE REQUIRED	RENEWAL CORRECT
			X	A AMENDMENT	YEARS PERIOD
23	REFERENCE		FIRST GIVEN NAME	INITIAL	SURNAME
24	DEBTOR/ TRANSFEROR	BUSINESS NAME	HIGHYON DEVELOPMENT NO. 118 LP		
25	OTHER CHANGE				
26	REASON/ DESCRIPTION	AMENDMENT OF SECURED PARTY'S ADDRESS			
28					
02/05	DEBTOR/ TRANSFEREE	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
03/06		BUSINESS NAME			
04/07		ADDRESS	ONTARIO CORPORATION NO.		
29	ASSIGNOR	SECURED PARTY/LIEN CLAIMANT/ASSIGNEE			
08		VECTOR FINANCIAL SERVICES LIMITED			
09		ADDRESS	245 EGLINTON AVENUE EAST, SUITE 400	TORONTO	ON M4P 3B7
10	COLLATERAL CLASSIFICATION	CONSUMER	MOTOR VEHICLE	DATE OF	NO FIXED
		GOODS	INVENTORY EQUIPMENT ACCOUNTS OTHER	INCLUDED	AMOUNT MATURITY OR MATURITY DATE
11	MOTOR VEHICLE	YEAR	MAKE	MODEL	V.I.N.
12	GENERAL				
13	COLLATERAL				
14	DESCRIPTION				
15	REGISTERING AGENT OR	CASSELS BROCK & BLACKWELL LLP (JFREEMAN 49004-26)			
16	SECURED PARTY/ LIEN CLAIMANT	ADDRESS	SUITE 2100, 40 KING STREET WEST	TORONTO	ON M5H 3C2

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

CONTINUED... 4



(crj2fu 06/2019)

RUN NUMBER : 057  
RUN DATE : 2020/02/26  
ID : 20200226145042.05

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

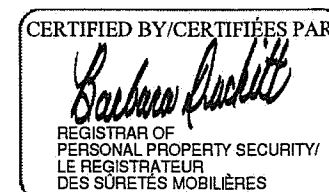
REPORT : PSSR060  
PAGE : 4  
( 10761)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : HIGHYON DEVELOPMENT NO. 118 LP  
FILE CURRENCY : 25FEB 2020

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
732385422	20170928 1101 1590 3194	20190503 1327 1590 5770		

2 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



(crj5 06/2019)

RUN NUMBER : 057  
RUN DATE : 2020/02/26  
ID : 20200226145013.59

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 10754)

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

TYPE OF SEARCH : BUSINESS DEBTOR

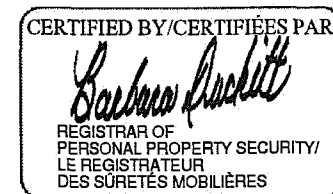
SEARCH CONDUCTED ON : HIGHYON GP NO.118 CORP.

FILE CURRENCY : 25FEB 2020

ENQUIRY NUMBER 20200226145013.59 CONTAINS 4 PAGE(S), 1 FAMILY(IES).

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

GOWLING WLG (CANADA) LLP - TORONTO - HAYLEY ROBERTS  
1 FIRST CANADIAN PLACE  
TORONTO ON M5X 1G5



(crf)5 06/2019

CONTINUED... 2

Ontario 

RUN NUMBER : 057  
 RUN DATE : 2020/02/26  
 ID : 20200226145013.59

PROVINCE OF ONTARIO  
 MINISTRY OF GOVERNMENT SERVICES  
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
 ENQUIRY RESPONSE  
 CERTIFICATE

REPORT : PSSR060  
 PAGE : 2  
 ( 10755)

TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : HIGHYON GP NO.118 CORP.  
 FILE CURRENCY : 25FEB 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
 732385422

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
01	001	1		20170928 1101 1590 3194	P PPSA	4

DEBTOR NAME	DATE OF BIRTH	BUSINESS NAME	FIRST GIVEN NAME	INITIAL	SURNAME	ADDRESS	CITY	PROV	POSTAL CODE	ONTARIO CORPORATION NO.
02		HIGHYON DEVELOPMENT NO. 118 LP				350 HIGHWAY 7 EAST, SUITE 310	RICHMOND HILL	ON	L4B 3N2	

DEBTOR NAME	DATE OF BIRTH	BUSINESS NAME	FIRST GIVEN NAME	INITIAL	SURNAME	ADDRESS	CITY	PROV	POSTAL CODE	ONTARIO CORPORATION NO.
05		HIGHYON GP NO. 118 CORP.				350 HIGHWAY 7 EAST, SUITE 310	RICHMOND HILL	ON	L4B 3N2	

SECURED PARTY / LIEN CLAIMANT	ADDRESS	CITY	PROV	POSTAL CODE
08	VECTOR FINANCIAL SERVICES LIMITED	TORONTO	ON	M5P 1B9

COLLATERAL CLASSIFICATION		MOTOR VEHICLE	AMOUNT	DATE OF MATURITY	OR	NO FIXED MATURITY DATE
10	CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	INCLUDED
		X	X	X	X	X

MOTOR VEHICLE	YEAR	MAKE	MODEL	V.I.N.
11				

13 GENERAL SECURITY DOCUMENTATION RELATING TO PROPERTY LOCATED AT 9113 & 9125  
 14 COLLATERAL BATHURST STREET, RICHMOND HILL, ONTARIO.  
 15 DESCRIPTION

REGISTERING AGENT	ADDRESS	CITY	PROV	POSTAL CODE
16	CASSELS BROCK & BLACKWELL LLP (JFREEMAN #49004-26)	TORONTO	ON	M5H 3C2

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

CONTINUED... 3

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Duckitt*  
 REGISTRAR OF  
 PERSONAL PROPERTY SECURITY/  
 LE REGISTRATEUR  
 DES SÛRETÉS MOBILIÈRES

(cij1fu 06/2019)



RUN NUMBER : 057  
RUN DATE : 2020/02/26  
ID : 20200226145013.59

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 3  
( 10756)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : HIGHYON GP NO.118 CORP.  
FILE CURRENCY : 25 FEB 2020

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

CAUTION FILING	PAGE NO. OF	TOTAL PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER
01	001	1		20190503 1327 1590 5770	
21	FILE NUMBER	732385422			
22	PAGE AMENDED	NO SPECIFIC PAGE AMENDED	CHANGE REQUIRED	RENEWAL YEARS	CORRECT PERIOD
		X	A AMENDMENT		
23	REFERENCE	FIRST GIVEN NAME	INITIAL	SURNAME	
24	DEBTOR/ TRANSFEROR	BUSINESS NAME	HIGHYON DEVELOPMENT NO. 118 LP		
25	OTHER CHANGE	AMENDMENT OF SECURED PARTY'S ADDRESS			
26	REASON/ DESCRIPTION				
27					
28					
02/	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME	
05	DEBTOR/ TRANSFeree	BUSINESS NAME			
06					ONTARIO CORPORATION NO.
04/07	ADDRESS				
29	ASSIGNOR	SECURED PARTY/LIEN CLAIMANT/ASSIGNEE			
08		VECTOR FINANCIAL SERVICES LIMITED			
09	ADDRESS	245 EGLINTON AVENUE EAST, SUITE 400	TORONTO	ON	M4P 3B7
	COLLATERAL CLASSIFICATION				
	CONSUMER	MOTOR VEHICLE	DATE OF	NO FIXED	
	GOODS	INVENTORY EQUIPMENT ACCOUNTS OTHER	INCLUDED	AMOUNT MATURITY OR	MATURITY DATE
10					
11	MOTOR	YEAR MAKE	MODEL	V.I.N.	
12	VEHICLE				
13	GENERAL				
14	COLLATERAL				
15	DESCRIPTION				
16	REGISTERING AGENT OR	CASSELS BROCK & BLACKWELL LLP (JFREEMAN 49004-26)			
17	SECURED PARTY/ LIEN CLAIMANT	ADDRESS	SUITE 2100, 40 KING STREET WEST	TORONTO	ON M5H 3C2

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

CONTINUED... 4

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Duckitt*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(crj2fu 06/2019)





RUN NUMBER : 057  
RUN DATE : 2020/02/26  
ID : 20200226145013.59

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

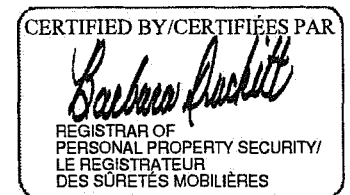
REPORT : PSSR060  
PAGE : 4  
( 10757)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : HIGHYON GP NO.118 CORP.  
FILE CURRENCY : 25FEB 2020

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
732385422	20170928 1101 1590 3194	20190503 1327 1590 5770		

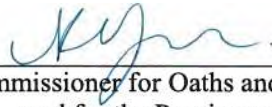
2 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



(crj5 06/2019)

**TAB H**

**THIS IS EXHIBIT "H"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario



April 3, 2019

**Highyon Development No. 118 LP**  
 350 Highway 7 East, Suite 310  
 Richmond Hill, Ontario L4B 3N2

**Attention: Mr. Roger Bing Pu**

Dear Sir:

**RE: Vector Financial Services Limited (the "Lender") First (1<sup>st</sup>) Mortgage Loan to Highyon Development No. 118 LP (the "Borrower") upon the security of all property and assets comprising 9113 & 9125 Bathurst Street in Richmond Hill, Ontario (the "Property")**  
**Vector Ref #: 17-50**

This amendment and extension letter (the "**Extension**") will confirm our agreement to the following amendments to our Loan Proposal dated August 4, 2017 and our Commitment Letter dated September 15, 2017 (the Commitment Letter is read in conjunction with the Loan Proposal and the documents are collectively, the "**Commitment Letter**").

1. **Term & Maturity**

SIX (6)

Seven (7) months from May 10, 2019 (the "**Extension Date**"). The Loan shall mature on ~~December~~  
**10, 2019** (the "**Maturity Date**").

NOVEMBER

2. **Interest Rate**

For the initial 5 months of the Term (and the final month of the previous term set out in the Commitment Letter): The Interest Rate shall be Floating at the greater of 9.25% per annum or the CIBC Posted Bank Prime Rate of Interest from time to time plus 6.30% Per Annum

Commencing on the first day of the 6<sup>th</sup> month (final) of the Term and continuing thereafter until repaid: Floating at the greater of 12% per annum or the CIBC Posted Bank Prime Rate of Interest from time to time plus 9.05% Per Annum (the "**Overholding Rate**").

BP

MM

\$126,000

BP

3. Loan Fees

\$63,000. The extension fee (the "Extension Fee") shall be deemed to be fully earned upon acceptance of this Extension, which amount shall be paid by the Borrower not later than 7 days prior to the Extension Date. In addition, the Borrower will be responsible for paying the Lender's legal costs, estimated at \$3,500, which are also due not later than 7 days prior to the Extension Date.

ON THE MATURITY DATE OR UPON REPAYMENT OF THE LOAN, WHICHEVER IS SOONER. MM BP

4. Prepayment

When not in default, the Loan shall be open for full prepayment, on any date, upon the Borrower providing 10 days' written notice to the Lender and upon the Borrower providing a copy of any refinancing document (term sheet, LOI, and commitment letter) received by the Borrower from a take-out lender (if applicable), with interest due and payable on a per diem basis. If the Borrower elects to exercise this clause to prepay the Loan prior to the scheduled maturity date, this must be so indicated in writing and a date chosen (the "New Maturity Date"). If the Borrower fails pay off the Loan within 30 days following the New Maturity Date, then the Loan shall be due and payable immediately and the Interest Rate charged thereon shall be set at the Overholding Rate, 3 months' interest shall become due pursuant to the Mortgages Act, and the Over Holding Fee shall apply.

5. Additional Security for the Extension

In addition to the security originally provided for the Initial Advance, all of which shall remain in place as security for this Extension, the following additional security is required:

- a) A registered Mortgage Amending and Extending Agreement, amending and extending the existing charge over the Property in accordance with the provisions of this Extension.
- b) Acknowledgment from the Borrower and Guarantors that all existing security previously provided remains in full force and effect, subject only to the amendments provided for herein.
- c) An amended unlimited Guarantee from the Guarantors to guarantee the full amount of the Loan.

6. Conditions Precedent to the Extension

- a) Completion of all security amendments as required by the Lender.
- b) Satisfactory inspection of the Property by the Lender.
- c) Confirmation that all property taxes owing on the Property have been paid.
- d) Receipt of a revised signed Subordination & Standstill agreement in the Lender's form between the Lender and any and all subsequent mortgagees. Terms of any new and subsequent financing by the Borrower relating to the Property much be approved by the Lender.
- e) If applicable, copies of Unit Sales Contracts, deposit listing certified by the Borrower's lawyer holding these deposits, condominium documentation.
- f) Updated planning report provided by the Borrower and/or the its planner and satisfactorily reviewed by the Lender.
- g) Such other materials and completion of such other reasonable requirements a may be deemed necessary by the Lender.

\* SECTION 3 AMENDED AND AGREED TO ON MAY 31, 2019 BY:

- 2 -  
MM

ROGER BING PU.

BP



7. **Special Servicing**

Each Borrower Entity acknowledges and agrees that: (j) at all times following the occurrence of any default or Event of Default (as defined in the Loan Documents including the failure to repay the Principal Amount by the Maturity Date), the Borrower will pay to the Lender all amounts equal to any special servicing fee payable by the Lender to its Loan servicer (calculated and payable monthly at a rate of 0.25% per month multiplied by the then-outstanding Principal Amount) following any default or Event of Default (whether or not subsequently cured, and regardless of how such Loan indebtedness is paid to or recovered by the Lender, including all payments subsequently made by the Borrower and applicable taxes thereon); and (ii) all such servicing fees are fair and commercially reasonable costs and expenses incurred by the Lender in connection with the Loan and do not constitute a fine, penalty, or default interest charged on arrears of principal or interest. Until paid by the Borrower to the Lender, all amounts payable on account of such servicing fees (and applicable taxes) will be costs within the meaning of the Loan Documents, and together with interest thereon at the applicable Loan interest rate, will be added to the Loan indebtedness and will be secured by the Loan Documents.

This Extension and the Commitment Letter shall be read together as one and the same document and may be executed in counterpart and delivered via facsimile or other electronic transmission. Other than as expressly set out herein, all of the terms and conditions of the Commitment Letter and the Extension shall continue in full force and effect, without amendment.

If the terms and conditions of this Extension are acceptable, please so indicate by signing the attached copy of this Letter, and return it to the writer's attention by **April 8, 2019**.

Yours very truly,

**VECTOR FINANCIAL SERVICES LIMITED**



---

Noah Mintz  
Managing Director  
Lic. #: M08006173



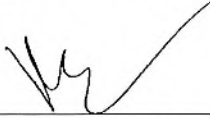
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Mitchell Oelbaum  
Chief Operating Officer  
Lic. #: M13001562

**ACCEPTANCE**

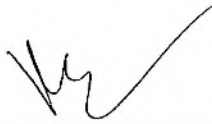
ACCEPTED on the terms and conditions herein provided this 5th day of April, 2019.

**Highyon Development No. 118 LP. - As Borrower**



Per: Roger Bing Pu

**I have the sole authority to bind the corporation.**



**Mr. Roger Bing Pu - As Guarantor**



Witness: Rain Zhang



# TAB I

**THIS IS EXHIBIT "I"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

**Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.**

**From:** [Roger Pu](#)  
**To:** [Noah Mintz](#)  
**Subject:** RE: 9125 Bathurst  
**Date:** November 6, 2019 2:30:50 PM

---

Hi, Noah:

Please do PAP for both

Best Regards,

Roger Pu, M.E., CCIM, FRI, CPM

Highyon Assets Corp  
350 Highway 7 East, Suite 310                      1000 N Hiatus Road, Suite 120  
Richmond Hill On L4B 3N2 Canada      Pembroke Pines FL 33026 US  
Tel: (905)597-7702 Ext 200; (954)416-3691 Ext 200 (US)  
Cel: (647)299-5376; (954)815-1895 (US)  
W: [www.highyon.com](http://www.highyon.com)  
E: [roger.pu@highyon.com](mailto:roger.pu@highyon.com)

-----Original Message-----

From: Noah Mintz [<mailto:noah@vectorfinancialservices.com>]  
Sent: November-05-19 12:05 PM  
To: Roger Pu <[roger.pu@highyon.com](mailto:roger.pu@highyon.com)>  
Subject: RE: 9125 Bathurst

Roger-

I trust you received the information. A questions for you:

We will be taking the interest payment as mentioned out of the PAP account on November 11th. Can we take the Fee by PAP as well or will you be sending the Fee separately. Please advise.

Thanks

,

Noah

-----Original Message-----

From: Roger Pu <[roger.pu@highyon.com](mailto:roger.pu@highyon.com)>  
Sent: November 4, 2019 8:50 AM  
To: Noah Mintz <[noah@vectorfinancialservices.com](mailto:noah@vectorfinancialservices.com)>  
Cc: Highyon Admin <[admin@highyon.com](mailto:admin@highyon.com)>  
Subject: RE: 9125 Bathurst

Thank you Noah:

Please send the all mortgage statements for 2017,2018 and 2019 up to date.

Best Regards,

Roger Pu, M.E., CCIM, FRI, CPM

Highyon Assets Corp  
350 Highway 7 East, Suite 310            1000 N Hiatus Road, Suite 120  
Richmond Hill On L4B 3N2 Canada    Pembroke Pines FL 33026 US  
Tel: (905)597-7702 Ext 200; (954)416-3691 Ext 200 (US)  
Cel: (647)299-5376; (954)815-1895 (US)  
W: www.highyon.com  
E: roger.pu@highyon.com

-----Original Message-----

From: Noah Mintz [<mailto:noah@vectorfinancialservices.com>]  
Sent: November-03-19 10:04 AM  
To: Roger Pu <roger.pu@highyon.com>  
Subject: 9125 Bathurst

Hi Roger-

The credit committee has met and since we have already provided one extension for this loan, we are not currently prepared to provide a second formal 6 month extension.

However, provided that the back ended fee of \$126,000 is paid by November 10, 2019 as owed, and provided the monthly interest is kept current, we will agree not to enforce on the security and will simply overhold on a month to month basis under the terms of the previous agreement for a period of up to 6 months.

Should you have any questions please let me know.

Regards

Noah

Noah Mintz  
Managing Director  
Vector Financial Services Limited  
416-300-6897 - Mobile  
416-483-4367 - Office Direct

**TAB J**

**THIS IS EXHIBIT "J"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.



**Vector Financial**  
SERVICES LIMITED  
Brokerage Licence #10160, Administrator Licence #11205

**WITHOUT PREJUDICE**

January 16, 2020

Highyon Development No. 118 LP  
350 Highway 7 East, Suite 310,  
Richmond Hill, ON L4B 3N2

**Attention: Roger Bing Pu**

Dear Roger Bing:

**Re: Collection Letter under mortgage loan secured by 1<sup>st</sup> Mortgage on  
9113 and 9125 Bathurst Street, Richmond Hill - Our Ref: 17-50**

---

The monthly interest payment due January 10, 2020 in the amount of **\$60,125.00** was returned N.S.F. by your bank.

Pursuant to the terms of your mortgage, an N.S.F. charge of **\$350.00** and a **\$750.00** charge for this Default Letter have been added to your account and are now due.

This is to notify you that you are in default under the terms of your mortgage and, unless a bank draft or wire transfer is received by our offices in the amount of **\$61,225.00 by no later than 5 pm today January 16, 2020**, legal proceedings to enforce our security will commence.

Govern yourselves accordingly.

Yours truly,

**VECTOR FINANCIAL SERVICES LIMITED**

**Roy Tan, CPA, CGA**

Controller

FSCO License No. M08002851

---

245 Eglinton Avenue East, Suite 400, Toronto, Ontario M4P 3B7

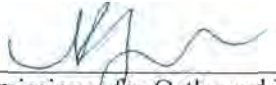
Phone: 416-483-8018 Fax: 416-483-9763

[www.vectorfinancialservices.com](http://www.vectorfinancialservices.com)



**TAB K**

**THIS IS EXHIBIT "K"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.



**Vector Financial**  
SERVICES LIMITED  
Brokerage Licence #10160, Administrator Licence #11205

**WITHOUT PREJUDICE**

February 12, 2020

Highyon Development No. 118 LP  
350 Highway 7 East, Suite 310,  
Richmond Hill, ON L4B 3N2

**Attention: Roger Bing Pu**

Dear Roger Bing:

**Re: Collection Letter under mortgage loan secured by 1<sup>st</sup> Mortgage on  
9113 and 9125 Bathurst Street, Richmond Hill - Our Ref: 17-50**

---

The monthly interest payment due February 10, 2020 in the amount of **\$60,125.00** was returned N.S.F. by your bank.

Pursuant to the terms of your mortgage, an N.S.F. charge of **\$350.00** and a **\$750.00** charge for this Default Letter have been added to your account and are now due.

This is to notify you that you are in default under the terms of your mortgage and, unless a bank draft or wire transfer is received by our offices in the amount of **\$61,225.00 by no later than 5 pm today February 12, 2020**, legal proceedings to enforce our security will commence.

Govern yourselves accordingly.

Yours truly,

**VECTOR FINANCIAL SERVICES LIMITED**

**Roy Tan, CPA, CGA**

Controller

FSCO License No. M08002851

**TAB L**

**THIS IS EXHIBIT "L"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.

# Cassels

February 20, 2020

**Via Registered and Ordinary Mail**

Highyon GP No. 118 Corp.  
350 Highway 7 East, Suite 310  
Richmond Hill, ON L4B 3N2

Highyon Development No. 118 LP  
350 Highway 7 East, Suite 310  
Richmond Hill, ON L4B 3N2

Bing Pu  
18 Country Heights Drive  
Richmond Hill, ON L4B 3N2

labramson@cassels.com  
tel: +1 416 869 5729  
fax: +1 416 646 5500  
file # 49004-26

Dear Sirs/Mesdames:

**Re: Vector Financial Services Limited mortgage loan to Highyon GP No. 118 Corp. and Highyon Development No. 118 LP (collectively, the "Borrower") as guaranteed by Bing Pu 9113 Bathurst Street and 9125 Bathurst Street, Richmond Hill, ON**

We are the solicitors for Vector Financial Services Limited and have been advised that the above-noted mortgage is in default.

Accordingly, our client requires full payment of its mortgage, and the required amount to discharge the same, as at March 2, 2020, is as follows:

Principal Balance	\$5,550,000.00
Interest Due February 10, 2020	60,125.00
Interest to March 2, 2020	44,569.34
Expenses paid by broker (incl. HST)	774.20
Annual review fee – 2 @ \$565.00	1,130.00
Statement fee (incl. HST)	395.50
Bank processing fee	500.00
Discharge fee	500.00
Bank wire fee	15.00
Special servicing fee	55,500.00
Reimbursement for Insurance monitoring (incl. HST)	226.00
NSF Payment Charge	1,100.00

Legal Costs	<u>3,000.00</u>
TOTAL:	<u>\$5,717,835.04</u>

E. & O.E.

**We, therefore, require that you provide this office with a certified cheque or money order made payable to Cassels Brock & Blackwell LLP, In Trust in the amount of \$5,717,835.04, on or before the 2<sup>nd</sup> day of March, 2020.** Please be advised that cheques or money orders/bank drafts obtained from The Toronto-Dominion Bank are subject to a seven (7) business day hold and we therefore suggest that you provide funds from another Schedule I bank so as to avoid incurring delay and additional interest charges.

Failure to provide the sums as aforesaid will result in our client instructing us to commence the collection of rents from any tenant(s) on the premises or whatever other action it deems necessary to protect its interests. In this regard, we enclose herewith and serve you with a Notice of Intention to Enforce Security, pursuant to the *Bankruptcy and Insolvency Act*.

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

Yours truly,

Cassels Brock & Blackwell LLP



Lanning J. Abramson  
Partner  
LA/djm

LEGAL\*49774481.1



**NOTICE OF INTENTION TO ENFORCE SECURITY**

TO: Highyon GP No. 118 Corp.  
350 Highway 7 East, Suite 310  
Richmond Hill, ON L4B 3N2

Highyon Development No. 118 LP  
350 Highway 7 East, Suite 310  
Richmond Hill, ON L4B 3N2

Bing Pu  
18 Country Heights Drive  
Richmond Hill, ON L4B 3N2

**TAKE NOTICE THAT:**

1. Vector Financial Services Limited, a secured creditor, intends to enforce its security on the property of the insolvent persons described below:

Lands and premises municipally known as 9113 Bathurst Street and 9125 Bathurst Street, Richmond Hill, ON

2. The security that is to be enforced is in the form of:

- (a) a Mortgage registered in the Land Registry Office at Aurora, Ontario, for the Land Registry Division of York Region (No. 65) on the 29<sup>th</sup> day of September, 2017, as Instrument No. YR2739495;
- (b) a Notice of Assignment of Rents – General registered in the Land Registry Office at Aurora, Ontario, for the Land Registry Division of York Region (No. 65) on the 29<sup>th</sup> day of September, 2017, as Instrument No. YR2739496;
- (c) *Personal Property Security Act* (Ontario) (“PPSA”) Financing Change Statement registered as Registration No. 20170928 1101 1590 3194 under Reference File Number 732385422;
- (d) PPSA Financing Change Statement registered as Registration No. 20170928 1103 1590 3198 under Reference File Number 732387582; and
- (e) All ancillary and supplemental documents thereto.

3. The total amount of indebtedness secured by the security is:

Principal Balance	\$5,550,000.00
Interest Due February 10, 2020	60,125.00
Interest to March 2, 2020	44,569.34
Expenses paid by broker (incl. HST)	774.20
Annual review fee – 2 @ \$565.00	1,130.00
Statement fee (incl. HST)	395.50
Bank processing fee	500.00
Discharge fee	500.00
Bank wire fee	15.00
Special servicing fee	55,500.00
Reimbursement for Insurance monitoring (incl. HST)	226.00
NSF Payment Charge	1,100.00
Legal Costs	3,000.00
TOTAL:	<u>\$5,717,835.04</u>

E. & O.E.

Additional amounts will accrue after March 2, 2020, including interest, proper costs, charges and expenses as set out in the mortgage.

4. The secured creditor will not have the right to enforce the security until after the expiry of the ten-day period following the sending of this Notice, unless the insolvent person consents to an earlier enforcement.

DATED at Toronto, the 20<sup>th</sup> day of February, 2020.

**VECTOR FINANCIAL SERVICES LIMITED**

By its Solicitors:

**CASSELS BROCK & BLACKWELL LLP**

Suite 2100

40 King Street West

Toronto, Ontario

M5H 3C2

Per: 

\_\_\_\_\_  
Kwaku Tabi

**TAB M**

**THIS IS EXHIBIT "M"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.



**Vector Financial**  
SERVICES LIMITED  
Brokerage Licence #10160, Administrator Licence #11205

**WITHOUT PREJUDICE**

February 28, 2020

Highyon Development No. 118 LP  
350 Highway 7 East, Suite 310  
Richmond Hill, ON L4B 3N2

**Attention: Roger Bing Pu**

Dear Mr. Pu:

**Re: 1<sup>st</sup> Mortgage on 9113 and 9125 Bathurst Street, Richmond Hill - Our Ref: 17-50**

We acknowledge receipt of the past due interest payment for the period from January 10, 2020 to February 9, 2020 (which was due on February 10, 2020) and certain fees in the total amount of **\$61,225.00**.

Although Vector Financial Services Limited (“**Vector**”) is in receipt of such funds, Vector at this time, is not willing to waive the payment default. Until it has had a chance to discuss further internally and with its enforcement counsel, Vector is additionally not willing to retract: (i) its acceleration of all amounts owing to Vector by Highyon Development No. 118 LLP pursuant to its mortgage loan as outlined in its demand letter issued by Cassels Brock & Blackwell LLP dated as of February 20, 2020; or (ii) its notice of intention to enforce security issued on February 20, 2020 pursuant to Section 244 of the *Bankruptcy and Insolvency Act* R.S.C. , 1985, c. B-3.

Vector expressly reserve all of its rights, powers, privileges and remedies under its mortgage and associated loan documents, and/or applicable law.

Yours truly,

**VECTOR FINANCIAL SERVICES LIMITED**

Per:

**Mitchell Oelbaum**

Chief Operating Officer

FSRA Licence No. M13001562

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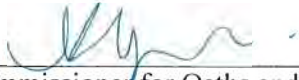
245 Eglinton Avenue East, Suite 400, Toronto, Ontario M4P 3B7

Phone: 416-483-8018 Fax: 416-483-9763

www.vectorfinancialservices.com

**TAB N**

**THIS IS EXHIBIT "N"  
REFERRED TO IN THE AFFIDAVIT OF  
NOAH MINTZ SWORN BEFORE ME ON  
MARCH 9, 2020**



---

A Commissioner for Oaths and Notary Public in  
and for the Province of Ontario

Katherine Eve Yurkovich, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires May 18, 2021.



Court File No.

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

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

BETWEEN:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

HIGHYON DEVELOPMENT NO. 118 LP and HIGHYON GP NO. 118 CORP.

Respondents

**CONSENT TO ACT**

**RSM CANADA LIMITED** hereby consents to act as receiver without security, of the lands and premises municipally known as 9113 & 9125 Bathurst Street, Richmond Hill, Ontario, in accordance with an order substantially in form of the receivership order sought and included in the Application Record of Vector Financial Services Limited.

**DATED** the 14<sup>th</sup> day of March, 2020

**RSM CANADA LIMITED**

  
\_\_\_\_\_

Daniel Weisz, Senior Vice-President

Court File No. **CV-20-0063787-00CL**

**VECTOR FINANCIAL SERVICES LIMITED**

- and -

**HIGHYON DEVELOPMENT NO. 118 LP and  
HIGHYON GP NO. 118 CORP.**

Respondents

Applicant

**APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended**

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

PROCEEDING COMMENCED AT TORONTO

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**AFFIDAVIT OF NOAH MINTZ**

(Sworn March 9, 2020)

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Solicitors for the Applicant

**TAB 3**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE )  
JUSTICE )  
 )  
FRIDAY, THE 20TH  
DAY OF MARCH, 2020

**VECTOR FINANCIAL SERVICES LIMITED**

Applicant

- and -

**HIGHYON DEVELOPMENT NO. 118 LP and HIGHYON GP NO. 118 CORP**

Respondents

**ORDER**  
**(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing RSM Canada Limited ("**RSM**") as receiver (in such capacity the "**Receiver**") without security, of the lands and premises municipally known as 9113 & 9125 Bathurst Street, Richmond Hill, Ontario and legally described in Schedule "A", including all proceeds thereof (collectively, the "**Property**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Noah Mintz sworn March 9, 2020 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, and those other parties listed on the counsel slip, no one else appearing for any other party although duly served as appears from the affidavit of service of Katherine Yurkovich sworn March ●, 2020 and on reading the consent of RSM to act as the Receiver,

**SERVICE:**

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

**APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, RSM is hereby appointed Receiver, without security, of the Property.

**RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to Highyon Development No. 118 LP and Highyon GP No. 118 Corp. (collectively, the "**Debtors**"), with respect to the Property and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;

- (e) to settle, extend or compromise any indebtedness owing to the Debtors with respect to the Property;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (g) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (i) to sell, convey, transfer, lease or assign the Property or any part or parts thereof with the approval of this Court, and notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (j) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (k) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (l) to register a copy of this Order and any other Orders in respect of the Property against title to the Property;
- (m) to apply for any permits, licences, approvals or permissions in respect of the Property as may be required by any governmental authority and any renewals

thereof or and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

- (n) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor; and
- (o) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.



6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE PROPERTY**

8. THIS COURT ORDERS that no Proceeding against or in respect of the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. THIS COURT ORDERS that all rights and remedies against the Receiver or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors in connection with or relating to the Property, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors in connection with or relating to the Property or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors in connection with or related to the Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver.

### **RECEIVER TO HOLD FUNDS**

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable relating to the Property in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

13. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **ACCESS RIGHTS / NO POSSESSION BY THE RECEIVER**

15. THIS COURT ORDERS that the Receiver shall not go into possession of the Property.

16. THIS COURT ORDERS that the Receiver is authorized to have access to the Property including any fenced-in area of the Property and any buildings or dwellings on the Property, and to provide access to the Property to the Receiver's agents, or any prospective purchaser of the Property and / or their agents or any other party. For greater certainty, neither the Receiver nor any other party shall be deemed to be in possession of the Property as a result of: (i) it taking any steps to secure or maintain the Property including any buildings or dwellings situated thereon; (ii) it entering any buildings or dwellings on the Property or (iii) it exercising those access rights provided for in this paragraph 16.

17. THIS COURT ORDERS that notwithstanding anything in Paragraph 16 hereof, the Receiver shall not enter into any buildings or dwellings on the Property, without first providing 48 hours notice by leaving a sealed copy of the notice on the doorstep of the applicable building or dwelling or in any mailbox in respect of the Property, or by email to any email address known by the Receiver to be used by any tenant of such buildings or dwellings.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

18. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any

of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

19. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

20. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and

disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

23. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

26. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

### **SERVICE AND NOTICE**

27. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and

effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <[www.rsmcanada.com/9113-and-9125-bathurst](http://www.rsmcanada.com/9113-and-9125-bathurst)>

28. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

29. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors or any of them.

31. 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.

32. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by from any realizations from the Property with such priority and at such time as this Court may determine.

34. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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**SCHEDULE "A"**

**LEGAL DESCRIPTION OF REAL PROPERTY**

- **PIN 03215-1220 (LT):** PT LT 12 PL 1960 VAUGHAN AS IN R430908; EXCEPT PT 6 65R34243; TOWN OF RICHMOND HILL
- **PIN 03215-1223 (LT):** PT LTS 11 & 12 PL 1960 (VGN) PTS 1 & 2 65R30010 EXCEPT PTS 6 & 7 65R34155 & EXCEPT PT 7 65R34243 AND SAVE & EXCEPT PTS 2 & 3, ON 6535056; TOWN OF RICHMOND HILL

**SCHEDULE "B"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$\_\_\_\_\_

1. THIS IS TO CERTIFY that RSM Canada Limited, the receiver (the "**Receiver**") of the lands and premises municipally known as 9113 & 9125 Bathurst Street, Richmond Hill, Ontario, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an application having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

RSM CANADA LIMITED, solely in its capacity  
as Receiver of the Property, and not in its personal  
capacity

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

Name:

Title:

Court File No. CV-20-0063787-00CL

VECTOR FINANCIAL SERVICES LIMITED

- and -

HIGHYON DEVELOPMENT NO. 118 LP and  
HIGHYON GP NO. 118 CORP.

Applicants

Respondents

APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended

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

PROCEEDING COMMENCED AT TORONTO

**RECEIVERSHIP ORDER**

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Solicitors for the Applicant

**TAB 4**

Court File No. ~~\_\_\_\_\_~~ CV-20-0063787-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE ) ~~WEEKDAY~~FRIDAY, THE #20TH  
 )  
JUSTICE ) DAY OF ~~MONTH~~MARCH, ~~20YR~~2020  
 )

**~~PLAINTIFF~~<sup>1</sup>**

~~Plaintiff~~

VECTOR FINANCIAL SERVICES LIMITED

Applicant

- and -

**~~DEFENDANT~~**

~~Defendant~~

HIGHYON DEVELOPMENT NO. 118 LP and HIGHYON GP NO. 118 CORP

Respondents

**ORDER  
(appointing Receiver)**

THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~<sup>2</sup>Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing

<sup>1</sup>~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application.~~

~~This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

<sup>2</sup>~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

~~[RECEIVER'S NAME]RSM Canada Limited ("RSM") as receiver [and manager] (in such capacities, capacity~~ the "Receiver") without security, of ~~all of the assets, undertakings and properties of [DEBTOR'S NAME] (the "Debtor") acquired for, or used in relation to a business carried on by~~lands and premises municipally known as 9113 & 9125 Bathurst Street, Richmond Hill, Ontario and ~~legally described in Schedule "A", including all proceeds thereof (collectively,~~ the ~~Debtor,~~"Property") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]Noah Mintz~~ sworn ~~[DATE]March 9, 2020~~ and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]the Applicant, and those other parties listed on the counsel slip,~~ no one ~~else~~ appearing for ~~[NAME]any other party~~ although duly served as appears from the affidavit of service of ~~[NAME]Katherine Yurkovich~~ sworn ~~[DATE]March 9, 2020~~ and on reading the consent of ~~[RECEIVER'S NAME]RSM~~ to act as the Receiver,

#### **SERVICE:**

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application Record is hereby abridged and validated<sup>3</sup> so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

#### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]RSM~~ is hereby appointed Receiver, without security, of ~~all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor,~~ including all proceeds thereof (the "Property").

#### **RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

<sup>3</sup>~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- ~~(c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;~~
- (c) ~~(d)~~ to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- ~~(e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;~~
- (d) ~~(f)~~ to receive and collect all monies and accounts now owed or hereafter owing to ~~the Debtor~~ Highyon Development No. 118 LP and Highyon GP No. 118 Corp. (collectively, the "Debtors"), with respect to the Property and to exercise all remedies of the ~~Debtor~~ Debtors in collecting such monies, including, without limitation, to enforce any security held by the ~~Debtor~~ Debtors;
- (e) ~~(g)~~ to settle, extend or compromise any indebtedness owing to the ~~Debtor~~ Debtors with respect to the Property;



- (f) ~~(h)~~ to execute, assign, issue and endorse documents of whatever nature in respect of ~~any of~~ the Property, whether in the Receiver's name or in the name and on behalf of the ~~Debtor~~ Debtors, for any purpose pursuant to this Order;
- (g) ~~(i)~~ to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the ~~Debtor, the~~ Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) ~~(j)~~ to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (i) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof ~~out of the ordinary course of business,~~
- ~~(i) without the approval of this Court in respect of any transaction not exceeding \$ \_\_\_\_\_, provided that the aggregate consideration for all such transactions does not exceed \$ \_\_\_\_\_; and (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause; and in each such case notice under subsection 63(4) of the Ontario Personal Property Security Act,<sup>5</sup> or section 31 of the Ontario Mortgages Act, as the case may be,<sup>5</sup> shall not be required, and in each case the Ontario Bulk Sales Act shall not apply.~~

<sup>4</sup> ~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

<sup>5</sup> ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (j) ~~(h)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (k) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (l) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to ~~any of~~ the Property;
- (m) ~~(o)~~ to apply for any permits, licences, approvals or permissions in respect of the Property as may be required by any governmental authority and any renewals thereof ~~for or~~ and on behalf of and, if thought desirable by the Receiver, in the name of the ~~Debtor~~Debtors;
- (n) ~~(p)~~ to enter into agreements with any trustee in bankruptcy appointed in respect of the ~~Debtor~~Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- ~~(q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and~~
- (o) ~~(r)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the ~~Debtor~~Debtors, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the ~~Debtor~~Debtors, (ii) all of ~~its~~their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons

acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the ~~business or affairs of the Debtor~~ [Property](#), and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

~~7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the~~

~~landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.~~

#### NO PROCEEDINGS AGAINST THE RECEIVER

7. ~~8.~~ THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### NO PROCEEDINGS AGAINST THE ~~DEBTOR OR THE~~ PROPERTY

8. ~~9.~~ THIS COURT ORDERS that no Proceeding against or in respect of the ~~Debtor or the~~ Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of ~~the Debtor or~~ the Property are hereby stayed and suspended pending further Order of this Court.

#### NO EXERCISE OF RIGHTS OR REMEDIES

9. ~~10.~~ THIS COURT ORDERS that all rights and remedies against the ~~Debtor, the~~ Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the ~~Debtor~~Debtors to carry on any business which the ~~Debtor~~is Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the ~~Debtor~~Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### NO INTERFERENCE WITH THE RECEIVER

10. ~~11.~~ THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the ~~Debtor~~Debtors in connection with or relating to the Property, without written consent of the Receiver or leave of this Court.

## CONTINUATION OF SERVICES

11. ~~12.~~ THIS COURT ORDERS that all Persons having oral or written agreements with the ~~Debtor~~Debtors in connection with or relating to the Property or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the ~~Debtor~~Debtors in connection with or related to the Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, ~~and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.~~

## RECEIVER TO HOLD FUNDS

12. ~~13.~~ THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable relating to the Property in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## EMPLOYEES

13. ~~14.~~ THIS COURT ORDERS that all employees of the ~~Debtor~~Debtors shall remain the employees of the ~~Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees~~Debtors. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## PIPEDA

14. ~~15.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## ACCESS RIGHTS / NO POSSESSION BY THE RECEIVER

15. THIS COURT ORDERS that the Receiver shall not go into possession of the Property.

16. THIS COURT ORDERS that the Receiver is authorized to have access to the Property including any fenced-in area of the Property and any buildings or dwellings on the Property, and to provide access to the Property to the Receiver's agents, or any prospective purchaser of the Property and / or their agents or any other party. For greater certainty, neither the Receiver nor any other party shall be deemed to be in possession of the Property as a result of: (i) it taking any steps to secure or maintain the Property including any buildings or dwellings situated thereon; (ii) it entering any buildings or dwellings on the Property or (iii) it exercising those access rights provided for in this paragraph 16.

17. THIS COURT ORDERS that notwithstanding anything in Paragraph 16 hereof, the Receiver shall not enter into any buildings or dwellings on the Property, without first providing 48 hours notice by leaving a sealed copy of the notice on the doorstep of the applicable building or dwelling or in any mailbox in respect of the Property, or by email to any email address known by the Receiver to be used by any tenant of such buildings or dwellings.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

18. ~~16.~~ THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession")

of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### LIMITATION ON THE RECEIVER'S LIABILITY

19. ~~17.~~ THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### RECEIVER'S ACCOUNTS

20. ~~18.~~ THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

21. ~~19.~~ THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

<sup>6</sup>~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

22. ~~20.~~ THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### FUNDING OF THE RECEIVERSHIP

23. ~~21.~~ THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~\_\_\_\_\_~~100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. ~~22.~~ THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

25. ~~23.~~ THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "AB" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

26. ~~24.~~ THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.



## SERVICE AND NOTICE

27. ~~25.~~ THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL

~~<@>~~ [www.rsmcanada.com/9113-and-9125-bathurst](http://www.rsmcanada.com/9113-and-9125-bathurst)

28. ~~26.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the ~~Debtor's~~Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the ~~Debtor~~Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## GENERAL

29. ~~27.~~ THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. ~~28.~~ THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the ~~Debtor~~Debtors or any of them.

31. ~~29.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the 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.

32. ~~30.~~ THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. ~~31.~~ THIS COURT ORDERS that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~application, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~Applicant's security or, if not so provided by the ~~Plaintiff~~Applicant's security, then on a substantial indemnity basis to be paid by ~~the Receiver~~ from ~~the Debtor's estate~~any realizations from the Property with such priority and at such time as this Court may determine.

34. ~~32.~~ THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

**SCHEDULE "A"**

**LEGAL DESCRIPTION OF REAL PROPERTY**

- PIN 03215-1220 (LT): PT LT 12 PL 1960 VAUGHAN AS IN R430908; EXCEPT PT 6 65R34243; TOWN OF RICHMOND HILL
- PIN 03215-1223 (LT): PT LTS 11 & 12 PL 1960 (VGN) PTS 1 & 2 65R30010 EXCEPT PTS 6 & 7 65R34155 & EXCEPT PT 7 65R34243 AND SAVE & EXCEPT PTS 2 & 3, ON 6535056; TOWN OF RICHMOND HILL

SCHEDULE "A"B"

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~RSM Canada Limited, the receiver (the "Receiver") of the ~~assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor~~lands and premises municipally known as 9113 & 9125 Bathurst Street, Richmond Hill, Ontario, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an ~~action~~application having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [~~daily~~][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, ~~20~~\_\_\_\_\_.

~~[RECEIVER'S NAME]~~ RSM CANADA LIMITED, solely in its capacity  
as Receiver of the Property, and not in its personal  
capacity

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

Name:

Title:

VECTOR FINANCIAL SERVICES LIMITED

- and -

Court File No. CV-20-0063787-00CL  
HIGHYON DEVELOPMENT NO. 118 LP and  
HIGHYON GP NO. 118 CORP.

Applicants

Respondents

APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

RECEIVERSHIP ORDER

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Description	TOR_LAW-#10231973-v4-Vector,_Highyon_-_Receivership_Order
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Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	316

VECTOR FINANCIAL SERVICES LIMITED

- and -

HIGHYON DEVELOPMENT NO. 118 LP and HIGHYON  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**APPLICATION RECORD  
(Returnable March 20, 2020)**

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Solicitor for the Applicant