

NOTICE OF DEPOSIT RETURN PROTOCOL APPROVAL

October 16, 2024

TO: Counterparties to unit purchase agreements with Vandyk-Backyard Kings Mill Limited

Reference is made to the Agreement of Purchase and Sale between yourself, as purchaser and Vandyk-Backyard Kings Mill Limited, as vendor (the "**Vendor**"), as may be amended, supplemented, modified or restated (the "**APS**").

Reference is also made to the Approval and Vesting Order granted on July 15, 2024 by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") in Court File No. CV-23-710267-00CL (the "**AVO**").

In accordance with paragraph 7 of the AVO, KSV Restructuring Inc., in its capacity as court-appointed receiver and manager of certain assets, property and undertakings of the Vendor, and not in its personal, corporate or any other capacity (in such capacity, the "**Receiver**"), previously provided you with notice that your APS has been terminated and disclaimed, effective August 23, 2024 (the "**Termination Notice**").

In the Termination Notice, the Receiver advised that the deposits paid by homebuyers are fully insured, and that such homebuyers would be able to recover their deposits.

The Receiver, Aviva Insurance Company of Canada ("**Aviva**") and Tarion Warranty Corporation have prepared a protocol (the "**Deposit Return Protocol**") to refund deposits that have been paid under applicable unit purchase agreements, which is attached as Schedule "A". On October 16, 2024, the Court approved the Deposit Return Protocol.

You will receive a letter from Aviva or its authorized agent in the coming days with further information on the steps you are required to take to receive your deposit pursuant to the Deposit Return Protocol, including the execution of a release and termination agreement, the final form of which will be provided by Aviva.

KSV RESTRUCTURING INC., in its capacity as court-appointed receiver and manager, of certain assets, property and undertakings of Vandyk-Backyard Kings Mill Limited, and not in its personal, corporate or any other capacity.

Per:  _____

Name: Noah Goldstein

Title: Managing Director

SCHEDULE "A"

Deposit Return Protocol

For The Kings Mill Project (the "Protocol")

- 1) Pursuant to paragraph 7 of the Approval and Vesting Order dated July 15, 2024 (the "**Court Order**") issued in the receivership proceeding with respect to certain assets, property and undertakings of Vandyk-Backyard Kings Mill Limited ("**Vandyk Kings Mill**"), all of the Unit Purchase Agreements ("**Unit APSs**") for the Kings Mill project known municipally as 15 Neighbourhood Land, Etobicoke, Ontario (the "**Kings Mill Project**") have been terminated.
- 2) KSV Restructuring Inc. in its capacity as Receiver (as defined in the Court Order) shall send letters to the purchasers under the Unit APSs known to the Receiver (the "**Purchasers**") notifying them that the Unit APSs have been terminated pursuant to the Court Order, notifying them that Aviva Insurance Company of Canada ("**Aviva**"), Tarion Warranty Corporation ("**Tarion**"), and the Receiver have agreed upon a protocol to refund the deposits (which deposit amounts include any amounts that would be a valid deposit claim under the *Ontario New Home Warranties Plan Act* and under Master Deposit Insurance Policy 192310074) that the Purchasers provided under the Unit APSs (the "**Deposits**") and attaching the Release and Termination Agreement (attached as Schedule "A"). Aviva and Tarion shall be blind copied on, or provided with copies of, the Receiver's letters to the Purchasers.
- 3) Aviva shall request that the Deposits, together with all accrued interest thereon, be transferred by Schneider Ruggiero Spencer Milburn LLP, in its capacity as escrow agent, to Aviva or its authorized agent to be held by Aviva or such authorized agent pursuant to the terms of this Protocol.
- 4) The Receiver will provide a Statutory Declaration, in the form attached as Schedule "B", to Tarion.
- 5) Vandyk Kings Mill will be asked to provide the Statutory Declaration, in the form attached as Schedule "C", to Tarion. Failure by Vandyk Kings Mill to provide the Statutory Declaration will not prevent the return of the Deposits to the Purchasers and is not a condition of such return. For the avoidance of doubt, the Receiver is not to be asked to provide such Statutory Declaration on behalf of Vandyk Kings Mill.
- 6) The Purchasers will upload their executed Release and Termination Agreement, with a copy of their photo ID, a mailing address for the return of their Deposits and a confirmation of the principal amount of the Deposits to the following website: www.mnp.ca/avivadepositreturn. The Receiver may also provide such materials as

provided by Purchasers to Aviva, its authorized agent or Tarion.

- 7) Aviva or its authorized agent will assemble an electronic brief (“**Brief**”) in respect of each of the Unit APSs for the Kings Mill Project, which Brief will include the following (to the extent available):
 - a) Executed Release and Termination Agreement;
 - b) Copy of Purchaser’s photo ID;
 - c) Copy of the first page of the applicable Unit APS; and
 - d) Copy of any assignment of the Unit APS.
- 8) Aviva or its authorized agent will send the completed Briefs to Tarion monthly.
- 9) On a monthly basis, upon Tarion confirming to Aviva or its authorized agent that the documentation in the applicable Briefs is complete and that Aviva’s liability to the relevant Purchasers for claims for the return of their respective Deposits will be extinguished once Aviva or its authorized agent releases such Deposits to such Purchasers, Aviva or its authorized agent will release the Deposits to the relevant Purchasers or as any Purchaser may otherwise direct in writing. This process will be carried out on a timely basis, such that Tarion will provide Aviva or its authorized agent with its confirmation within ten business days of receipt of a Brief.
- 10) Aviva or its authorized agent will then distribute, upon receipt of Tarion’s confirmation as noted above, the Deposit refund cheques in the names of the applicable Purchasers or as otherwise directed in writing, together with any interest accrued thereon which the Purchaser is entitled to receive pursuant to the provisions of the *Condominium Act, 1998 as amended*.
- 11) Upon the release of Deposits, Aviva or its authorized agent will provide to Tarion confirmation of the release of the Deposit refund cheques in respect of the applicable Unit APSs by providing a Statutory Declaration in the form attached as Schedule “D”.
- 12) Upon receipt of the confirmation referred to in paragraph 11 and being satisfied that its liability to the relevant Purchasers for claims in respect of their respective Deposits has been extinguished, Tarion will provide confirmation to Aviva or its authorized agent on a monthly basis that the Tarion bond (the “**Tarion Bond**”) is reduced by the relevant amount on a unit-by-unit basis.
- 13) Aviva or its authorized agent will provide Tarion with a monthly deposit report of the Deposits released and Deposits not released.
- 14) Once all of the Deposits have been returned to the Purchasers and upon being satisfied that its liability to the relevant Purchasers for claims in respect of their

respective Deposits has been extinguished, Tarion will correspondingly reduce the amount of the Tarion Bond; provided, however, that Tarion shall at all times be entitled to retain a sufficient portion of the Tarion Bond to cover Tarion's liabilities in respect of amounts secured by the Tarion Bond that have not been extinguished at the time of any reduction. Upon being satisfied that its liability in respect of amounts secured by the Tarion Bond has been extinguished, Tarion will return the Tarion Bond to Aviva for cancellation within 30 calendar days.

SCHEDULE "A" TO THE DEPOSIT RETURN PROTOCOL
FOR THE KINGS MILL PROJECT

RELEASE AND TERMINATION AGREEMENT

BETWEEN: **VANDYK-BACKYARD KINGS MILL LIMITED.**

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

- and -

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

WHEREAS the Purchaser and the Vendor entered into an agreement of purchase and sale dated ____, (the "**Purchase Agreement**") pertaining to the Purchaser's acquisition from the Vendor of DWELLING UNIT ____ on LEVEL ____, ____ () PARKING UNIT(S) and ____ () LOCKER UNIT(S), together with an undivided interest in the common elements appurtenant to such units (all of which are hereinafter collectively defined as the "**Purchased Units**"), in accordance with the condominium plan documentation proposed to be registered against those lands and premises municipally located at 15 Neighbourhood Lane, Toronto, Ontario and legally described as PIN 07500-0082 (LT) and more particularly described in the Purchase Agreement (the "**Kings Mill Project**");

AND WHEREAS pursuant to an Order made by the Superior Court of Justice (Commercial List) for Ontario (the "**Court**") dated December 11, 2023 (the "**Receivership Order**"), KSV Restructuring Inc. was appointed as Receiver (as defined under the Receivership Order);

AND WHEREAS pursuant to an Order made by the Court dated July 15, 2024 (together with the Receivership Order, the "**Orders**"), the Purchase Agreement, along

with all agreements of purchase and sale between the Vendor and the purchasers of residential dwellings within the Kings Mill Project, was terminated;

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

NOW THEREFORE THESE PRESENTS WITNESSETH that in consideration of the mutual covenants and releases hereinafter set forth, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged), the parties hereto hereby confirm the accuracy and veracity of the foregoing recitals, and do hereby covenant and agree to the following, in each case subject to and without limiting or otherwise altering the terms of the Orders and applicable law:

1. The Vendor and Purchaser acknowledge that the Purchase Agreement, together with any and all addendums thereto or amendments thereof, has been terminated and is of no further force or effect.
2. In accordance with the Protocol, upon the execution of these presents by both parties hereto and delivery of same to Aviva Insurance Company of Canada or its authorized agent (“**Aviva**”) and following review and approval of same by the Tarion Warranty Corporation (“**Tarion**”) pursuant to the Protocol, Aviva shall refund and remit to the Purchaser at the mailing address provided by the Purchaser the sum of \$____ representing the aggregate of all deposit monies heretofore paid by the Purchaser to the Vendor on account of the purchase price for the Purchased Units (hereinafter collectively referred to as the “**Deposit Monies**”), together with any interest accruing thereon that the Purchaser is entitled to receive pursuant to the terms and provisions of the Purchase Agreement and/or the *Condominium Act, 1998*, S.O. 1998, c. 19, as amended. For clarity, such accrued interest is ____.
3. The parties hereto hereby mutually release each other, and each of their respective heirs, estate trustees, successors and assigns, from and against any and all costs, damages, actions, proceedings, demands and/or claims whatsoever which either of the parties hereto now has, or may hereafter have, against the other party hereto, by reason of, or in connection with, the Purchase Agreement (and any and all addendums thereto or amendments thereof) and/or the termination thereof pursuant to the provisions hereof.
4. Without restricting the generality of the foregoing, it is expressly understood and agreed that the Purchaser shall not make or pursue any claim(s) or proceeding(s) with respect to the Purchase Agreement, the Purchased Units, the Deposit Monies and/or the Kings Mill Project, against the Vendor, Tarion, Aviva or its authorized agent, or the Receiver, or any other surety company or companies that

have issued one or more bonds to Tarion in connection with the Kings Mill Project, nor against any party acting as escrow agent or as a prescribed trustee with respect to purchasers' deposit monies, nor against any other person(s) or corporation(s) entitled to claim (or who might claim) contribution or indemnity from the Vendor in connection with the Purchase Agreement or the termination thereof pursuant to these presents, or in connection with the Kings Mill Project.

5. The Purchaser acknowledges and confirms that all of the estate, right, title and interest of the Purchaser in and to the Purchased Units and the Kings Mill Project (both at law and in equity, and whether in possession, expectancy or otherwise) have been released and quit-claimed to and in favour of the Vendor and its successors and assigns forever.
6. In the event that all or any portion of the Deposit Monies heretofore received by the Vendor were drawn on the bank account of a third party who is not the Purchaser (nor one of the individuals who collectively comprise the Purchaser), then the Purchaser shall indemnify and save the Vendor harmless, from and against all costs, claims, damages and/or liabilities which either or both of them may hereafter suffer or incur as a result of the Deposit Monies being refunded directly to the Purchaser in accordance with these presents, rather than being payable and remitted directly to said third party.
7. The Purchaser agrees to furnish with the execution of this Agreement a clear scan or photocopy of government issued photo identification.
8. The Purchaser acknowledges and confirms having had the opportunity to receive independent legal advice from qualified counsel with respect to all matters herein and has received such advice or has expressly declined or waived the opportunity to do so.
9. This Agreement shall enure to the benefit of, and be correspondingly binding upon, the parties hereto and each of their respective heirs, estate trustees, successors and permitted assigns.
10. This Agreement shall be construed in accordance with (and the parties hereto shall be governed by) the laws of the Province of Ontario, and each of the parties hereto shall attorn to the jurisdiction of the courts of the Province of Ontario.
11. This Agreement shall be read and construed with all changes of gender and/or number required by the context, and if more than one individual comprises the Purchaser, then all of the foregoing covenants and agreements of the Purchaser shall be deemed and construed to be joint and several covenants and agreements thereof.

12. Each of the parties hereto further acknowledges and agrees that these presents may be executed via telefax transmission (and the execution of a telefaxed version hereof by any or all of the undersigned parties shall have the same force and effect as if same were originally executed), and that a photocopy, telefaxed copy or scanned e-mailed copy of this executed Mutual Release and Termination Agreement may be relied upon to the same extent as if it were an original executed version.

IN WITNESS WHEREOF each of the parties hereto has hereunto executed these presents effective this day of , 2024.

SIGNED, SEALED AND DELIVERED

in the presence of:

WITNESS SIGNATURE

PURCHASER SIGNATURE

Witness Name:

Purchaser Name:

Address:

Address.:

Phone No.:

Phone No.:

VANDYK-BACKYARD KINGS MILL LIMITED., BY KSV RESTRUCTURING INC., SOLELY IN ITS CAPACITY AS RECEIVER AND NOT IN ITS PERSONAL, CORPORATE OR ANY OTHER CAPACITY

Per: _____

Name: _____

SCHEDULE "B" TO THE DEPOSIT RETURN PROTOCOL
FOR THE KINGS MILL PROJECT

STATUTORY DECLARATION

CANADA)	IN THE MATTER OF the proposed development of a condominium project by Vandyk-Backyard Kings Mill Limited (the " Owner ") situated in the City of Toronto on those lands and premises previously owned by the Owner located at the address known municipally as 15 Neighbourhood Land, Etobicoke, Ontario (the " Property ")
)	
PROVINCE OF ONTARIO)	
)	
)	
)	
)	
)	
TO WIT:)	
)	

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

1. I am a <*> of KSV Restructuring Inc., which was appointed as receiver, manager and construction lien trustee of certain property, assets and undertakings of the Owner pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) granted on December 11, 2023 (in such capacity, the "**Receiver**").
2. I am advised by Schneider Ruggiero Spencer Milburn LLP, in its capacity as escrow agent, that, to the best of its knowledge: (i) the Owner was party to _____ agreements of purchase and sale with respect to units in the Project as of _____ (collectively, the "**Condominium Sales Agreements**"), listed on "Exhibit "A" hereto; and (ii) since _____, and aside from the agreement pursuant to which the Property was sold in the receivership proceedings, no other agreements of purchase and sale have been entered into by the Owner or the Receiver in respect of the Project or the Property.
3. Nothing has come to my attention that would suggest that sales of units in the Project were agreed to by the Owner after December 11, 2023.

AND I MAKE THIS solemn) **THE KSV RESTRUCTURING INC. solely in its**
declaration conscientiously) **capacity as Receiver, and not in its personal,**
believing it to be true and) **corporate or any other capacity**
knowing it is of the same force)
and effect as if made under)
oath.)
)

DECLARED BEFORE ME in)
City of Toronto, in the Province)
of Ontario, this <*> day of <*>,)
2024.)

A COMMISSIONER, ETC.

Name: <*>
Title: <*>

SCHEDULE "C" TO THE DEPOSIT RETURN PROTOCOL
FOR THE KINGS MILL PROJECT

STATUTORY DECLARATION

CANADA)	IN THE MATTER OF the proposed development of a condominium project by Vandyk-Backyard Kings Mill Limited. (the " Owner ") situated in the City of Toronto on those lands and premises previously owned by the Owner located at the address known municipally as 15 Neighbourhood Lane, Etobicoke, Ontario (the " Property ")
)	
PROVINCE OF ONTARIO)	
)	
)	
)	
)	
)	
TO WIT:)	
)	

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

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

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

DECLARED BEFORE ME in)
City of Toronto, in the Province)
of Ontario, this <*> day of <*>,)
2024.)

_____) <*>
A COMMISSIONER, ETC.)
)

SCHEDULE "D" TO THE DEPOSIT RETURN PROTOCOL
FOR THE KINGS MILL PROJECT

STATUTORY DECLARATION

CANADA)
)
)
 PROVINCE OF ONTARIO)
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 TO WIT:)
)

IN THE MATTER OF the proposed development of a condominium project by Vandyk-Backyard Kings Mill Limited. (the "Owner") situated in the City of Toronto on those lands and premises previously owned by the Owner located at the address known municipally as 15 Neighbourhood Lane, Ontario (the "Property")

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

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

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

DECLARED BEFORE ME in)
City of Toronto, in the Province)
of Ontario, this <*> day of <*>,)
2024.)

AVIVA INSURANCE COMPANY OF CANADA

A COMMISSIONER, ETC.)

Name: <*>
Title: <*>