

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

BETWEEN:

**PAUL JOSEPH DIETRICH**

Applicant

- and -

**STEVEN ROBERT MCLAREN**

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O.  
1990, c. B16, as amended.

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**APPLICATION RECORD  
(Returnable April 4, 2022)**

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**DLA PIPER (CANADA) LLP**  
1 First Canadian Place, Suite 6000  
100 King Street West  
Toronto, ON M5X 1E2

**Danny M. Nunes (LSO No. 53802D)**  
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**Lawyers for the Applicant**

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- 2 Affidavit of Paul Joseph Dietrich sworn March 30, 2022

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- A Arbitration Award dated January 18, 2022
  - B Consent of Albert Gelman Inc. dated March 30, 2022
- 
- 3 Draft Order

# TAB 1



Electronically issued : 29-Mar-2022  
Délivré par voie électronique : 29-Mar-2022  
Toronto

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**NOTICE OF APPLICATION**

**TO THE RESPONDENT:**

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

THIS APPLICATION will come on for a hearing

- In person
- By telephone conference
- By video conference

before a judge presiding over the Commercial List on Monday, April 4, 2022 at 9:45AM, or as soon after that time as the application can be heard.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer, 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, and file it, with proof of service, in the court officer where the application is to be heard as soon as possible, but at least four days before the hearing.

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

Date: March <sup>29</sup>~~28~~, 2022

Issued by: \_\_\_\_\_  
Local Registrar

Address of Court Office: 330 University Avenue  
Toronto, ON M5G 1R7

TO: **PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**  
155 Wellington Street West  
35<sup>th</sup> Floor  
Toronto, ON M5V 3H1

**Jeffrey Larry**  
Tel: 416.646.4330  
Email: [jeff.larry@paliareroland.com](mailto:jeff.larry@paliareroland.com)

**Lawyers for Steven Robert McLaren**

### APPLICATION:

1. The Applicant, Paul Joseph Dietrich, makes an application for an Order:
  - (a) validating and abridging the time and manner of service of the Notice of Application and Application Record and directing that any further service of the Notice of Application and Application Record be dispensed with such that this Application is properly returnable on the date scheduled for the hearing of this Application;
  - (b) appointing Albert Gelman Inc. ("AGI") as liquidator (in such capacity, the "**Liquidator**"), without security, of all of the assets, undertakings and properties (the "**Property**") of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (collectively, the "**Companies**"), pursuant to sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O. 1990, c. B16, as amended (the "**BCA**") and in accordance with the draft Order included at Tab 3 of the Application Record; and
  - (c) such other and further relief as counsel may request and this Honourable Court may deem just.

### THE GROUNDS FOR THE APPLICATION ARE:

2. the Applicant and Respondent were party to an arbitration proceeding before the former justice of the Ontario Superior Court of Justice (Commercial List), the Honourable Frank Newbould, Q.C., pursuant to the terms of a shareholders' agreement dated February 14, 2008 (the "**Arbitration**");
3. the parties agreed to certain minutes of settlement dated January 18, 2022 (the "**Minutes of Settlement**") to resolve the Arbitration;
4. pursuant to the Minutes of Settlement, the parties agreed and consented to the form of Order attached to the Minutes of Settlement as Schedule "A" being made in the Arbitration;

5. pursuant to the award of the Honourable Mr. Newbould dated January 18, 2022, it was ordered that the Companies be liquidated and that Bryan Gelman of AGI be appointed as liquidator;
6. the parties are in agreement and have consented to the appointment of AGI as Liquidator over the Companies pursuant to the provisions of the BCA so as to facilitate the liquidation of the Companies;
7. AGI has consented to its appointment as Liquidator;
8. Sections 207, 209 and 210 of the BCA; and
9. Rules 1.04, 1.05, 2.01, 2.03, 16 and 38 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended.

**AND FURTHER TAKE NOTICE** that the following materials will be filed in support of the Applicant's application, namely:

- (a) the Affidavit of Paul Joseph Dietrich;
- (b) the consent of AGI to its appointment as Liquidator; and
- (c) such further and other material as counsel may advise and this Honourable Court may permit.

March 29, 2022

**DLA PIPER (CANADA) LLP**  
1 First Canadian Place, Suite 6000  
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Toronto, ON M5X 1E2

**Danny M. Nunes (LSO No. 53802D)**  
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Email: [danny.nunes@dlapiper.com](mailto:danny.nunes@dlapiper.com)

**Lawyers for the Applicant**

Court File No.:

**PAUL JOSEPH DIETRICH**

and

**Applicant**

**STEVEN ROBERT MCLAREN**

**Respondent**

APPLICATION UNDER Sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O. 1990, c. B16, as amended

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
  
**PROCEEDINGS COMMENCED AT TORONTO**

**NOTICE OF APPLICATION**

**DLA PIPER (CANADA) LLP**  
1 First Canadian Place, Suite 6000  
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**Lawyers for the Applicant**

# **TAB 2**

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

BETWEEN:

**PAUL JOSEPH DIETRICH**

Applicant

- and -

**STEVEN ROBERT MCLAREN**

Respondent

APPLICATION UNDER sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O.  
1990, c. B16, as amended.

**AFFIDAVIT OF PAUL JOSEPH DIETRICH**

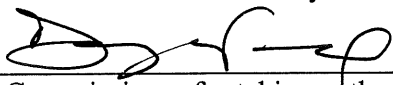
I, Paul Joseph Dietrich, of the City of Peterborough, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am an officer, director and shareholder of each of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (collectively, the "**Residual Companies**"). As such, I have knowledge of the matters deposed to in this affidavit. Where I do not have direct knowledge of a matter, I state the source of my information and believe it to be true.
2. The Respondent, Steven Robert McLaren, and I founded the Parkview Group of Companies (the "**Parkview Group**") in 1989. We were the only shareholders, officers and directors of the companies that comprise the Parkview Group.

3. In January 2022, I sold my beneficial interest in all of the companies that comprise the Parkview Group, other than the Residual Companies, to the Respondent. The Respondent and I remain the only shareholders, officers and directors of the Residual Companies.
4. The Respondent and I, along with certain of the companies that comprise the Parkview Group, entered into a shareholders agreement dated February 14, 2008 (the “**Shareholders Agreement**”).
5. Pursuant to the terms of the Shareholders Agreement, if any controversy relating to the Shareholders Agreement arose amongst the shareholders, the parties would initially attempt to negotiate a resolution to the controversy and if those negotiations were unsuccessful, the dispute would be submitted to a mediator. Finally, if the mediation did not resolve the dispute or either party would not participate in the mediation, the shareholders agreed that the dispute would be settled by way of arbitration pursuant to the *Arbitration Act* (Ontario).
6. The procedures set forth in the preceding paragraph were invoked by the Respondent upon providing me with a Notice of Dispute on November 15, 2019.
7. The Respondent and I were unable to resolve the dispute through negotiation and subsequently retained former justice of the Ontario Superior Court of Justice (Commercial List), the Honourable Frank Newbould, Q.C., to mediate the matter. A mediation was held on February 12, 2020, however, the parties were unable to resolve the dispute.
8. The matter was scheduled to proceed by way of arbitration in August 2020 before the Honourable Mr. Newbould but was adjourned on account of settlement discussions between the parties which were mediated by a third party, commencing July 25, 2020 and which continued from and after that date until approximately December 2020.
9. The settlement discussions were unsuccessful in resolving the dispute amongst the shareholders and the arbitration was scheduled to proceed before the Honourable Mr. Newbould on January 17, 2022.

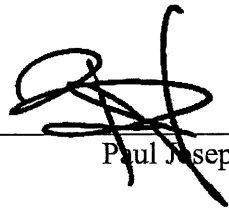
10. Prior to the commencement of the arbitration, the Respondent and I agreed to certain minutes of settlement dated January 18, 2022 (the “**Minutes of Settlement**”) to resolve the arbitration. Pursuant to the Minutes of Settlement, the parties agreed and consented to the form of Order attached to the Minutes of Settlement as Schedule “A” being made in the arbitration.
11. Pursuant to the award of the Honourable Mr. Newbould dated January 18, 2022 (the “**Arbitration Award**”), it was ordered, on the consent of the Respondent and I, that, among other things: (i) the arbitration be dismissed with prejudice and without costs on the terms set out in the Minutes of Settlement; and (ii) the Residual Companies be liquidated, and Bryan Gelman of Albert Gelman Inc. (“**AGI**”) be appointed as liquidator (the “**Liquidator**”). Attached hereto as Exhibit “A” is a copy of the Arbitration Award.
12. To facilitate the orderly liquidation of the Residual Companies, the parties have agreed and consent to the Liquidator’s appointment pursuant to the provisions of the *Business Corporations Act* (Ontario) (the “**BCA**”). I am advised by my counsel, Danny Nunes of DLA (Piper) Canada LLP (“**DLA**”), that the form of draft Order appointing the Liquidator and included in the Application Record, is largely based upon the Court’s model Order for the appointment of receivers and managers and expressly sets forth the Liquidator’s powers which it may assert in liquidating the Residual Companies, in addition to those powers set out in the BCA.
13. AGI has consented to act as Liquidator in these proceedings. Attached hereto as Exhibit “B” is a copy of AGI’s consent to its appointment as Liquidator.
14. I swear this affidavit in support of my application for the Liquidator’s appointment over the Residual Companies and for no other or improper purpose.

SWORN before me by videoconference )  
 this <sup>2<sup>nd</sup></sup> day of March, 2022 in accordance )  
 with O. Reg. 421/20, Administering )  
 Oath or Declaration Remotely. )



\_\_\_\_\_  
 A Commissioner for taking oaths

DANNY NUNES



\_\_\_\_\_  
 Paul Joseph Dietrich

This is Exhibit "A" to the affidavit of Paul Joseph Dietrich  
sworn before me this 30<sup>th</sup> day of March, 2022.

A handwritten signature in black ink, appearing to read "Danny Nunes", written over a horizontal line.

A Commissioner for taking affidavits

DANNY NUNES

**IN THE MATTER OF AN ARBITRATION**

THE HONOURABLE ) TUESDAY, THE 18TH  
FRANK J.C. NEWBOULD, Q.C. ) DAY OF JANUARY, 2022

B E T W E E N:

**PAUL JOSEPH DIETRICH**

Party of the First Part

and

**STEVEN ROBERT MCLAREN**

Party of the Second Part

**1361164 ONTARIO INC., 935976 ONTARIO INC., 1490623 ONTARIO  
INC., 1494282 ONTARIO INC., 1496986 ONTARIO INC., 1675578  
ONTARIO INC., PARKVIEW EXCAVATION SERVICES INC., and  
PARKVIEW HOMES INC.**

Parties of the Third Part

**AWARD**

The motion brought by Steven Robert McLaren (“McLaren”) in this Arbitration before Justice Newbould for, among other things, an Order enforcing the buy-sell agreement made November 26, 2021 between McLaren and Paul Joseph Dietrich (“Dietrich”) was heard this day at Arbitration Place.

ON CONSENT of the parties,

1. THIS TRIBUNAL ORDERS that this motion and the Arbitration, including the claim against Dietrich and the crossclaim against McLaren, be dismissed with prejudice and

without costs, on the terms set out in the Minutes of Settlement executed by the parties on January 18, 2022 (the "Minutes").

2. THIS TRIBUNAL ORDERS that 1950979 Ontario Inc., 1950941 Ontario Inc., 1827403 Ontario Inc., 1950940 Ontario Inc., 1885926 Ontario Inc. and 1853997 Ontario Inc. shall be liquidated, and that Bryan Gelman of Albert Gelman Inc. be appointed as liquidator; and

3. THIS TRIBUNAL ORDERS that any disputes arising from the matters contemplated in the Minutes of Settlement, including but not limited to their application or interpretation or the terms and effect of the Minutes and this Order shall be referred to Justice Newbould in his capacity as mediator and/or arbitrator pursuant to the Ontario Arbitration Act, 1991.



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*The Honourable Frank J.C. Newbould Q.C.*

**IN THE MATTER OF AN ARBITRATION**

**PAUL JOSEPH DIETRICH**

-and- **STEVEN ROBERT MCLAREN, et al.**

Party in the First Part

Party in the Second Part

***IN THE MATTER OF  
AN ARBITRATION***

**PROCEEDING COMMENCED AT  
TORONTO**

**ORDER**

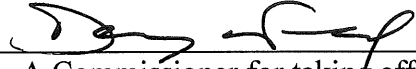
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**Lawyers for the Party of the Second Part**

This is Exhibit "B" to the affidavit of Paul Joseph Dietrich  
sworn before me this 30<sup>th</sup> day of March, 2022.



---

A Commissioner for taking affidavits

DANNY NUNES

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

***Ontario Business Corporations Act, R.S.O., Chapter B-16***

B E T W E E N:

**PAUL JOSEPH DIETRICH**

Applicant

- and -

**STEVEN ROBERT MCLAREN**

Respondent


**CONSENT TO ACT**

**ALBERT GELMAN INC.** consents to the following:

1. To act as Liquidator of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc.

**DATED** at Toronto, Ontario this 30th day of March 2022

**ALBERT GELMAN INC.,**  
Licensed Insolvency Trustee

Per:   
Bryan Gelman, *CIRP, LIT*

**PAUL JOSEPH DIETRICH**

and

**STEVEN ROBERT MCLAREN**

**Applicant**

**Respondent**

APPLICATION UNDER Sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O. 1990, c. B16, as amended

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**SUPERIOR COURT OF JUSTICE**  
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**PROCEEDINGS COMMENCED AT TORONTO**

**AFFIDAVIT OF PAUL JOSEPH DIETRICH**  
**(sworn March 30, 2022)**

**DLA PIPER (CANADA) LLP**  
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**Danny M. Nunes (LSO No. 53802D)**  
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Email: danny.nunes@dlapiper.com

Lawyers for the Applicant

# **TAB 3**



Applicant and the Respondent and those parties listed on the counsel slip, no one else appearing for any other person although duly served as appears from the affidavit of service of Danny Nunes sworn April 11, 2022, filed

### **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.

### **WINDING UP AND APPOINTMENT OF LIQUIDATOR**

2. **THIS COURT ORDERS** that the Companies shall be wound up pursuant to sections 207(b)(iii) and (iv) of the BCA.

3. **THIS COURT ORDERS** that pursuant to sections 207 and 210 of the BCA, AGI is hereby appointed Liquidator, without security, of all the Companies' Property with the powers set forth herein and those set forth in Part XVI of the BCA. To the extent that there is an inconsistency between the powers provided to the Liquidator under the BCA and this Order, the terms of this Order shall govern to the extent that they restrict or limit the powers of the Liquidator.

### **LIQUIDATOR'S POWERS**

4. **THIS COURT ORDERS** that in addition to all the powers provided in Part XVI of the BCA, including without limitation those set out in section 223 of the BCA, the Liquidator 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 Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Companies, 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 Companies;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Liquidator'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 Companies or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Companies and to exercise all remedies of the Companies in collecting such monies, including, without limitation, to enforce any security held by the Companies;
- (g) to settle, extend or compromise any indebtedness owing to the Companies, with the exception of any indebtedness owed to any of the Companies by Parkview Homes Inc. and its related and affiliated companies (collectively, the “**Parkview Group**”);
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Liquidator's name or in the

name and on behalf of the Companies, for any purpose pursuant to this Order;

- (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 Companies, the Property or the Liquidator, 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;
- (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 Liquidator in its discretion may deem appropriate;
- (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 \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$50,000.00; 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;
- (l) 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;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Liquidator deems appropriate on all matters relating to the Property, and to share information, subject to such terms as to confidentiality as the Liquidator deems advisable;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Liquidator, in the name of the Companies;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Companies, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Companies;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Companies may have;
- (r) to apply to the Court for an order dissolving the Companies; and
- (s) 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 Liquidator 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 Companies, and without interference from any other Person.

5. **THIS COURT ORDERS** that, without limiting any of the powers set out in paragraph 4 of this Order, the Liquidator is authorized and directed to enter into one or more standard listing agreements with one or more duly licensed commercial real estate agents (a “**Realtor**”) for the purpose of listing, marketing and selling the properties municipally known as 144 Brock Street and 888 Whitefield Drive, Peterborough, Ontario (the “**Real Property**”), at such listing prices as may be recommended by the respective Realtor and approved or agreed to by the Liquidator as appropriate in the circumstances and the Liquidator may, if deemed advisable by the Liquidator in consultation with the Realtor, take such actions or steps as may be required to lease any unit in the Real Property before listing the Real Property for sale, and is hereby authorized to do so.

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

6. **THIS COURT ORDERS** that (i) the Companies, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their 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 Liquidator of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator's request.

7. **THIS COURT ORDERS** that all Persons shall forthwith advise the Liquidator 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 Companies, 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 Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 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 Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

8. **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 Liquidator for the purpose of allowing the Liquidator 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 Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in

gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator 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 LIQUIDATOR**

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

#### **NO PROCEEDINGS AGAINST THE COMPANIES OR THE PROPERTY**

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

#### **NO INTERFERENCE WITH THE LIQUIDATOR**

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 Companies, without written consent of the Liquidator or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Companies 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 Companies 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 Liquidator, and that the Liquidator shall be entitled to the continued use of the Companies' 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 Liquidator in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

#### **LIQUIDATOR TO HOLD FUNDS**

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

#### **PIPEDA**

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator 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 Liquidator, 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 Companies, and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. **THIS COURT ORDERS** that nothing herein contained shall require the Liquidator 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 Liquidator from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Liquidator shall not, as a result of this Order or anything done in pursuance of the Liquidator'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 LIQUIDATOR'S LIABILITY**

16. **THIS COURT ORDERS** that the Liquidator 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. Nothing in this Order shall derogate from the protections afforded the Liquidator by Part XVI of the BCA or by any other applicable legislation.

### **LIQUIDATOR'S ACCOUNTS**

17. **THIS COURT ORDERS** that the Liquidator and counsel to the Liquidator 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 Liquidator and counsel to the Liquidator shall be entitled to and are hereby granted a charge (the "**Liquidator'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 Liquidator'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.

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

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Liquidator 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 Liquidator or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE LIQUIDATION**

20. **THIS COURT ORDERS** that the Liquidator 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 \$100,000.00 (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 Liquidator 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 "**Liquidator'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 Liquidator's Charge.

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

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

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator'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 Liquidator's Certificates.

#### **SERVICE AND NOTICE**

24. **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 '<http://www.albertgelman.com/corporate-solutions/other-engagements/>'.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator 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 Companies creditors or other interested parties at their respective addresses as last shown on the records of the Companies 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**

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

27. **THIS COURT ORDERS** that nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Companies.

28. **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 Liquidator 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 Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

29. **THIS COURT ORDERS** that the Liquidator 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 Liquidator 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.

30. **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 Liquidator 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"

### LIQUIDATOR'S CERTIFICATE

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

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

1. THIS IS TO CERTIFY that Albert Gelman Inc., the liquidator (the "**Liquidator**") of the assets, undertakings and properties of 1827403 Ontario Inc., 1853997 Ontario Inc., 1885926 Ontario Inc., 1950940 Ontario Inc., 1950941 Ontario Inc. and 1950979 Ontario Inc. (collectively, the "**Companies**") 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 having Court file number CV-22-00679109-00CL, has received as such Liquidator from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Liquidator 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 Liquidator 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 the right of the Liquidator 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

Liquidator 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 Liquidator to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Liquidator 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\_\_.

Albert Gelman Inc., solely in its capacity  
as Liquidator of the Property, and not in its  
personal capacity

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

Name:

Title:

**PAUL JOSEPH DIETRICH**

and

**STEVEN ROBERT MCLAREN**

**Applicant**

**Respondent**

APPLICATION UNDER Sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O. 1990, c. B16, as amended

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

PROCEEDINGS COMMENCED AT TORONTO

**ORDER  
(Liquidator's Appointment)**

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Lawyers for the Applicant

**PAUL JOSEPH DIETRICH**

and

**STEVEN ROBERT MCLAREN**

**Applicant**

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APPLICATION UNDER Sections 207, 209 and 210 of the *Business Corporations Act*, R.S.O. 1990, c. B16, as amended

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
  
**PROCEEDINGS COMMENCED AT TORONTO**

**APPLICATION RECORD**  
**(returnable April 4, 2022)**

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