Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

(Court Seal)

DIANNE LEONA QUINN

Plaintiff

- and -

VAULT HOME CREDIT CORPORATION and JOHN DOE

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

April 15, 2025

Issued by _____

Local Registrar

Address of court office: 245 Windsor Ave., Windsor, Ontario N9A 1J2

TO: **VAULT HOME CREDIT CORPORATION**
41 Scarsdale Rd Unit 5
North York, ON M3B 2R2

CLAIM

A. OVERVIEW

1. This proceeding is brought on behalf of homeowner victims of widespread, predatory door-to-door sales practices. Lured by promises of government rebates, energy savings, and "free repairs", the unsuspecting homeowners instead find themselves locked into long-term, improvident loans with none of the promised rebates or savings. Many of the victims are elderly homeowners who are unable to pay these predatory loans.

2. The defendant, Vault acted in concert with door-to-door sales fraudsters, who engaged in unlawful business practices that misled consumers into signing agreements in breach of consumer protection legislation.

3. The scheme involves two levels of predatory agreements, which consumers are induced to enter into by the door-to-door salespersons working in concert with the defendant:

(a) the agreement for home improvement goods and services as between the door-to-door salespersons ("Dealers" as defined below) and the consumer; and

(b) a purported loan agreement between Vault and the consumer to finance those goods and services.

4. In both instances, the agreements uniformly fail to comply with consumer protection legislation. The agreements have been intentionally structured to obscure material terms, mislead consumers, and induce them into transactions that are unconscionable, deceptive, and in violation of statutory protections.

5. Neither the plaintiff nor anyone else in the class understood, nor could they have

understood, the true nature and implications of the agreements that Vault and its army of door-to-door salespersons were having them enter into. No reasonable homeowner of sound mind would enter into an improvident arrangement such as those imposed by Vault on class members if the true nature of the arrangement were known to them.

6. Vault is instrumental to this scheme. It:

(a) finances and enables the predatory operations of these dealers against the plaintiff and the class, by giving the dealer direct access to its portal to originate loans on its behalf;

(b) effectively defines, leads, and controls the predatory operations of those dealers against the plaintiff and the class with the singular goal of maximizing its profits; and

(c) controls the unlawful profits flowing from the predatory, but extremely lucrative, conduct at issue in this litigation.

7. With the door-to-door salespersons long gone, the defendant remains to profit from the resulting unlawful and unconscionable consumer agreements.

8. Vault has knowingly received significant benefits from these transactions while facilitating or, alternatively, turning a blind eye to the misleading sales tactics and breaches of consumer protection legislation by its dealers.

9. Vault's conduct is part of a broader and notorious pattern of abusive practices within the door-to-door home improvement market, particularly the HVAC industry. This market has a long

history of aggressive sales tactics, predatory financing schemes, and misleading contractual arrangements.

10. Vault's contracts with the plaintiff and the class are uniformly unlawful and should be rescinded, cancelled or held to be unenforceable. The plaintiff and the class should be freed of the burden unlawfully imposed on them by the defendant.

11. Vault should be held to account for the harm that it and its Dealers have caused to the class. Vault should be permanently enjoined from engaging in the impugned conduct at issue in this litigation.

B. DEFINED TERMS

12. In this Statement of Claim, the following terms have the following meanings:

(a) "***Class Proceedings Act***" means the *Class Proceedings Act*, 1992, S.O. 1992, c. 6, as amended;

(b) "**Consumer Agreements**" means the Goods & Services Agreements and Loan Agreements, collectively;

(c) "***Consumer Protection Act***" means Ontario's *Consumer Protection Act, 2002*, SO 2002, c 30, Schedule A, and its Regulations, O. Reg. 8/18 and O. Reg. 17/05, all as amended;

(d) "**Dealer**" means persons who contracted with the plaintiff and the class—typically door-to-door dealers, suppliers, contractors, installers, and trades companies—for HVAC, pools and spas, windows and doors, water treatment, roofing and exteriors, home renovations, and similar goods and services, in association with a Loan Agreement with Vault, such as Provincial Smart Home Services / 2587998 Ontario Inc. ("**PSHS**"), NRG Home Services, Provincial Green Home, amongst others;

(e) "**Equivalent Consumer Protection Legislation**" means the *Consumer Protection Act*, C.Q.L.R. c. P-40.1; *Business Practices and Consumer Protection Act*, S.B.C. 2004, c.2; *Consumer Protection Act*, R.S.A. 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, S.S. 2013, c. C-30.2; *The Business Practices Act*, C.C.S.M. c. B120; *The Consumer Protection Act*, C.C.S.M. c. C200; *Consumer Protection Act*, R.S.N.S. 1989, c. 92; *Consumer Protection and Business*

Practices Act, S.N.L. 2009, c. C-31.1; *Business Practices Act*, R.S.P.E.I. 1988, c. B-7; *Consumer Protection Act*, R.S.P.E.I. 1988, C-19, including all regulations passed under each statute and in force during the class period, all as amended;

(f) "**Vault**" means Vault Home Credit Corporation, and includes VaultPay, Vault's financing affiliates and predecessors involved in the business of the consumer Loan Agreements at issue in this litigation, such as Vault Credit Corporation, HB Leaseco Holdings Inc., Blue Chip Leasing Corporation, and EcoHome Financial;

(g) "**Goods & Services Agreement**" means the consumer transaction between each class member and a Dealer with respect to HVAC, pools and spas, windows and doors, water treatment, roofing and exteriors, home renovations, and similar home improvement goods and services purportedly provided by the Dealer;

(h) "**Loan Agreement**" means the consumer transaction between each class member and Vault, whereby Vault extends a loan to the class member, as originated and facilitated by Dealers in connection with a Goods & Services Agreement;

(i) "**Program Agreement**" means each of the agreements that Vault has with its Dealers, which permit Dealers to provide Vault's Loan Agreements to consumers in connection with a Goods & Services Agreement.

C. RELIEF SOUGHT

13. The plaintiff, on her own behalf and on behalf of all class members, seeks:

(a) an order certifying this proceeding as a class proceeding and appointing the plaintiff as the representative plaintiff for the class;

(j) a declaration that Vault engaged in unfair practices contrary to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation*;*

(k) a declaration that the Consumer Agreements are in breach of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation;

(l) a declaration that it is not in the interests of justice to require that notice be given pursuant to any section of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation*,* and waiving any such notice requirement;

(m) rescission, cancellation and/or a declaration that the Consumer Agreements are invalid and unenforceable under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation;

(n) a declaration that the Consumer Agreements are invalid for unconscionability and unenforceable against the class;

(o) a declaration that Vault conspired, agreed, and arranged to engage in the impugned conduct;

(p) a declaration that Vault engaged in a common design with its Dealers;

(q) a declaration that Vault was unjustly enriched at the expense of the plaintiff and the class members, and restitution of all such amounts;

(r) general damages calculated on an aggregate basis or otherwise for all payments the class members made to Vault;

(s) special damages for, including but not limited to, out-of-pocket expenses, fees, penalties, damage to credit, mental and emotional suffering, and inconvenience expenses incurred;

(t) disgorgement of Vault's profits;

(u) punitive and exemplary damages in the amount of $10,000,000 under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and under the common law;

(v) relief from amounts that Vault claims are or were owed or owing to Vault by the plaintiff and the class members;

(w) an accounting of all revenues and profits made by Vault as a result of the unlawful conduct set out herein;

(x) a reference to decide any issues not decided at the trial of the common issues;

(y) an interlocutory injunction barring Vault from engaging in the conduct particularized herein;

(z) an order permanently enjoining Vault from engaging in the conduct particularized herein;

(aa) costs of administration and notice, plus applicable taxes, pursuant to s. 26(9) of the *Class Proceedings Act*;

(bb) costs of this action;

(cc) prejudgment interest compounded and post-judgement interest in accordance with ss. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c C.43; and

(dd) such further and other relief as the parties may advise and this Honourable Court deems just.

D. THE PARTIES

a. The Plaintiff

14. The plaintiff, Dianne Quinn, is a 67-year old semi-retiree living in Windsor, Ontario.

15. Struggling with her finances, Ms. Quinn continues to work as a part-time cleaner to make ends meet.

16. Ms. Quinn's home boiler system was rented from Reliance Home Comfort.

17. On or about October 9, 2023, a neighbour of Ms. Quinn's who is a PSHS salesperson convinced her that she needed to sign with PSHS to save a lot of money on her monthly boiler rental and utility bill.

18. He promised her should would qualify for rebates if she switched to PSHS. She would need to agree to PSHS buying out her existing boiler from Reliance, and install a heat pump and attic insulation. He assured her this was with a 0% interest loan. He said she would receive a water purifier, with an included cost of $2,000 plus $175 for installation. He said the monthly payment under PSHS would be $96.

19. Ms. Quinn acceded. The PSHS salesperson gave her something to sign digitally on his cellphone. Ms. Quinn could not see what she was signing.

20. Ms. Quinn was not given a Loan Agreement.

21. PSHS contracted with Reliance to buy out and keep in the house the same existing used boiler, and installed a heat pump and attic insulation in her house.

22. Ms. Quinn started paying her monthly bills, which turned out to be $104 contrary to what PSHS has said.

23. Unbeknownst to Ms. Quinn, Vault registered a Notice of Security Interest ("**NOSI**") for $27,000 on Ms. Quinn's home title on October 18, 2023.

24. Within a few months, Ms. Quinn realized that she had been misled.

25. First, the promised rebates never came. Ms. Quinn did not receive them.

26. Second, the water purifier that she had been charged for was never installed.

27. Third, on or about August 2024, Ms. Quinn received a letter from Vault advising that the interest rate on the Loan Agreement was 11.95% and that her bill was $265.66 a month.

28. Having realized that PSHS had lied to her, Ms. Quinn started trying to exercise her consumer protection rights. Starting in September of 2024, she sent letters to PSHS and Vault requesting a cancellation of the Consumer Agreement.

29. Ms. Quinn called these parties and asked them to please remove their equipment and leave her in peace. No one paid attention.

30. Ms. Quinn obtained a substitute rented boiler, again from Reliance, and had the Vault boiler (also previously rental from Reliance) uninstalled and placed in her basement so Vault can come and retrieve it. Because of the hole made in her wall to install the Vault heat pump, Ms. Quinn also contracted with Reliance to install a Reliance heat pump in her house, and left the Vault heat pump in her basement next to the boiler for Vault to retrieve.

31. She has asked Vault to come and remove the equipment, but Vault has no interest in getting

the equipment. The boiler and heat pump are still in Ms. Quinn's basement, waiting for Vault to take them.

32. Vault's response in April 2025 to Ms. Quinn's inquiries was to demand $21,241.98, which Ms. Quinn cannot afford. Otherwise, Vault stated:

> If you refuse to accept our offer, and continue to default on your loan, we will apply 24% annual default interest for non-payment and either send your account to Third Party Collections or proceed with litigation. If we seek judgement, we will present this offer letter to amicably settle this account as evidence in court.

33. Desperate and without the ability to retain counsel, Ms. Quinn next contacted the Advocacy Centre for the Elderly ("**ACE**") for help. Counsel at ACE emailed Vault on Ms. Quinn's behalf with her information and inquiry history, asking for relief.

34. ACE counsel specifically asked for Ms. Quinn's complete, properly signed Loan Agreement, with digital proof that Ms. Quinn had signed the Loan Agreement. In response, Vault provided a purported Loan Agreement and an "e-signature evidence summary" to ACE on April 3, 2025.

35. The e-signature evidence summary indicated that on October 16, 2023 someone with the email address "noemail@vaultpay.com" had forged Ms. Quinn's signature and sent the purported Loan Agreement back to the same email address, instead of Ms. Quinn. This Vault email address does not belong to Ms. Quinn.

36. ACE reviewed the purported Loan Agreement and signature and raised this signature issue with Vault.

37. No answer or relief was provided. Instead, Vault responded, further threatening Ms. Quinn with enforcement:

> Please do note that the account is currently 125 days past due with a past due amount of **$1222.64**. We are not rescinding or closing our contract, please make sure your client is aware of the arrears and requires to clear it or we will be pursing legal claim by May/June 2025.

38. Vault continues to demand against Ms. Quinn, harassing her with collections, knowing full well that it is seeking to enforce a loan induced by fraud. Vault's NOSI continues on Ms. Quinn's home title.

b. <u>The Class</u>

39. The plaintiff seeks to represent the following class:

> All individuals who are or were at any time, directly or indirectly, party to a Loan Agreement with the defendant, Vault, through a Dealer intermediary for HVAC, pools and spas, windows and doors, water treatment, roofing and exteriors, home renovations, and similar goods and services.

c. <u>The Defendant</u>

40. Vault is a company incorporated pursuant to Ontario's *Business Corporations Act* on November 26, 2020, and operates typically using the name "VaultPay" from its headquarters in Toronto, Ontario.

41. The impugned Vault and VaultPay business appears to be carried out through an opaque web of companies and other entities, the exact roles of which are not in Ms. Quinn's knowledge.

42. The defendant, John Doe, is any entity or individual in addition to the named corporation

who is later discovered to own, direct, or enforce the Loan Agreements against the class. Ms. Quinn reserves all her rights to later add such person(s) as defendant(s).

E. VAULT'S BUSINESS

a. Vault's business model and relationship with Dealers

43. Vault's business model in the subject consumer market is to capitalize on its network of Dealers to reach consumers and convince them to enter into Loan Agreements.

44. Vault enters into similarly termed Program Agreements with Dealers, whereby the Dealers were and are permitted to provide financing arrangements on behalf of Vault to consumers. Vault enters into Program Agreements with Dealers specifically for the purpose of permitting Dealers to solicit and provide financing arrangements on its behalf directly to consumers in relation to Goods & Services Agreements. Dealers interact with consumers for their Goods & Services Agreements and also facilitate or execute the consumer's Loan Agreements with Vault.

45. Pursuant to the Program Agreements, Dealers are given unique login credentials for accessing Vault's digital lending platform, giving them real-time access to submit completed loan documents and view all applications that have been made, the status of such applications, the status of project completion for approved loans, and loans that have been funded.

46. In the case of the plaintiff and every class member, Vault's Dealer process has resulted in a Loan Agreement. The plaintiff and every class member has a Loan Agreement with Vault. Vault is the source of the unlawful terms imposed on the class.

47. Pursuant to the Program Agreements, Vault pays the Dealer's invoice, and consumers are

on the hook for the loan principal, interest, and penalties under the Loan Agreement. Through its Program Agreements, Vault takes on the lucrative role of a predatory loan shark company in disguise, and acquires a proprietary interest in the resulting Consumer Agreements.

48. Most of the time, the Dealer is the only representative of Vault that the consumer interacts with. The Dealer makes the representations and promises regarding the Loan Agreement to the consumer on Vault's behalf.

49. The Dealer's interests are aligned with Vault—the Dealer is incentivized to maximize the number of Loan Agreements at any cost and by any means, and make the improvident terms of the Loan Agreements maximally one-sided to the consumer's detriment and Vault's benefit.

50. Dealers are Vault's agents and representatives:

(a) At all material times, under the Program Agreements, the operations and business of the Dealers were subject to the direction, instruction, and approval of Vault;

(b) The Program Agreements impose extensive obligations on Dealers, and in turn provide Vault with significant rights, ownership, control, and/or oversight over the assets and day-to-day business operations of Dealers; and

(c) Through these Program Agreements, Vault financed, owned, and controlled the origination and enforcement of the unlawful Consumer Agreements. The origination of the Consumer Agreements happens when Dealers directly induce class members to sign the Consumer Agreements. The Program Agreements in particular are agreements with Dealers to target class members and induce them to sign the unlawful Consumer Agreements. The financing aspect of this arrangement

is crucial to the incentive Dealers have to induce class members into unlawful Consumer Agreements, as, without such financing, Dealers would not be paid for the work they do.

51. Both Vault and Dealers know, or ought to know, that the only way to originate the unlawful and one-sided Consumer Agreements is to deceive the consumer.

52. Dealers are fly-by-night shell companies designed to take advantage of consumers and disappear, while Vault remains to reap the benefits of the Consumer Agreements while pointing the finger at the Dealer.

53. Vault knew from the outset that the door-to-door HVAC market was rife with fraud and elder abuse, including the extensive history of the impugned Dealers that Vault collaborates with. Vault knew or ought to have known that its Dealers were preying on consumers, acting unlawfully, and failing to comply with consumer protection legislation.

54. Vault has continued to enforce the Consumer Agreements against the class and benefit from its Dealers' ongoing unlawful acts against the class.

55. Vault wilfully turns a blind eye to the misconduct of the Dealers, just like it has ignored the circumstances of Ms. Quinn's Loan Agreement.

b. <u>The Loan Agreements</u>

56. Even when no representative of Vault is present at the time that the Loan Agreements are entered into with the class, Vault contracts directly with the class members to extend credit for the Goods & Services Agreements.

57. No class member entered into a Loan Agreement with Vault other than through the agency and intermediacy of one of its door-to-door Dealers.

58. In entering into the Loan Agreements, Vault and its Dealers collectively and systemically failed to disclose material information to consumers prior to entering into the agreements, including:

(a) the true nature and onerous one-sided terms of the Loan Agreements;

(b) that the zero interest promise was for a short time only and would be replaced by high interest rates, and that this interest would be payable for many years with minimal amounts of the bi-weekly or monthly payments going toward the principal;

(c) that the loan would be payable even if the promised services were not provided or were deficient or defective, or if the service provider went out of business;

(d) the class member's total liability under the Loan Agreements;

(e) that the Dealers were fly-by-night and unable to deliver any long term equipment service and repair as promised;

(f) that the principal amount under the Loan Agreement would be well above the value of the services or equipment provided;

(g) that the promises of government rebates, credit, and savings were systemically false and unachievable at all or as represented;

(h) that Vault would register a NOSI against title to their home;

(i) that there was a Program Agreement as between Vault and the Dealer; and

(j) that if the class member defaulted on the Loan Agreement, then the entire outstanding principal and any accrued interest became immediately due upon Vault's demand.

c. <u>Vault's continued collection efforts</u>

59. Until June 2024, these Consumer Agreements were enforced in Ontario by registering NOSIs against the home titles of consumers in order to extract unconscionable sums from them. Vault's NOSI on Ms. Quinn's home title is one such example.

60. The predatory use of NOSIs became so prevalent in the market that the Ontario government passed Bill 200, *The Homeowner Protection Act*, *2024*.

61. This legislation banned the registration of NOSIs for consumer goods on the Land Registry and deems NOSIs for consumer goods currently registered against title to be expired as of June 5, 2024. Without this legislative change, Vault would have been able to continue their normal practice of registering such NOSIs on title to consumers' homes and using such registrations as leverage to pressure consumers to pay sums under the unconscionable Consumer Agreements.

62. Vault has now moved on to other avenues of coercing payment. In particular, Vault uses aggressive demand letters, collections, and threats of litigation against helpless consumers to enforce the Consumer Agreements which it knows and has acknowledged as being deceitful, unlawful, and fraudulent.

63. Outside of Ontario, NOSIs remain an instrument of consumer extorsion.

64. Vault sends threatening letters to class members, demanding payment of the entirety of the loans it purports to hold. As exemplified by the case of Ms. Quinn, these letters threaten class members with legal action if they do not pay the thousands or tens of thousands of dollars remaining on the fraudulently obtained Loan Agreements within a few weeks.

65. Vault's continued collection efforts, including its legal threats, have caused significant harm to class members, including financial hardship, emotional distress, and damage to their credit.

F. CAUSES OF ACTION

a. Breach of the *Consumer Protection Act* and its Regulations, and similar provisions of the Equivalent Consumer Protection Legislation

66. Vault failed to comply with the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation. The Consumer Agreements are premised on breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

67. With respect to all Ontarian class members, Vault and its Ontario Dealers are located in Ontario and are each a "supplier" for the purposes of the *Consumer Protection Act*.

68. The *Consumer Protection Act* explicitly defines "supplier" as including a person who is in the business of selling, leasing, trading in, or supplying goods or services, and includes an agent of the supplier and a person who holds themself out to be a supplier or an agent of the supplier.

69. In this case, Vault's Dealers are explicitly in the business of supplying goods and services directly through the Goods & Services Agreements.

70. Vault is also a supplier within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation by way of:

(a) its direct contracting with the class members for the Loan Agreements; or

(b) its agency relationship with the Dealers who transact with the class for the entirety of the Consumer Agreements.

71. Accordingly, Vault is a "supplier" under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

72. The Consumer Agreements, including both the Loan Agreement and the Goods & Services Agreement, are "consumer agreements" for the purposes of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

73. The plaintiff and the other class members are "consumers" for the purposes of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

i. The Consumer Agreements breach direct agreement provisions

74. Both the Goods & Services Agreements and the Loan Agreements with the class members are direct agreements within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation. In each case, these agreements were negotiated and entered into by the class members at their homes.

75. In particular, with respect to the Loan Agreements, the Program Agreements explicitly permitted Dealers to induce class members into entering such consumer transactions in order to allow Dealers to facilitate the agreement process within class members' homes. The very purpose of the Program Agreements was to permit Dealers to directly provide the Loan Agreements to consumers.

76. As such, the Goods & Services Agreements and the Loan Agreements are direct agreements within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

77. Part IV of the *Consumer Protection Act* governs direct agreements. Section 42(1) of the *Consumer Protection Act* mandates that all direct agreements be made in accordance with requirements specified in regulations.

78. *Requirements for Direct Agreements Subject to Section 43.1 of Act*, O. Reg. 8/18, required at all material times that the supplier provide the consumer with an agreement setting out certain material information, including, but not limited to, a fair and accurate description of the prescribed good or service to be supplied, the total amount payable by the consumer under the agreement, all credit agreements as defined in Part VII of the *Consumer Protection Act* related to the agreement, and any other restrictions, limitations, and conditions that are imposed by the supplier with respect to the agreement, including the consumer's responsibilities under the agreement.

79. In respect of the Goods & Services Agreements, the Dealers systemically did not provide a true picture of the onerous terms that would be imposed on the class member, nor an accurate description of the goods or services to be provided. Vault knew or ought to have known that its

Dealers failed to deliver or install the products in good working order or at all yet continued to provide financing to the Dealers in any case.

80. Further, neither Vault nor its Dealers at any point properly disclose that the services to be provided by the Dealers are necessarily linked to Loan Agreements with Vault, or what the true terms of those Loan Agreements are. Such systemic failure to disclose this key aspect of the arrangement is an inaccurate description of the goods and services to be provided and a failure to disclose other restrictions, limitations and conditions that are imposed by the supplier.

81. In respect of the Loan Agreements, the Loan Agreements do not disclose to class members that it is a service provided specifically under the Program Agreements that Vault has with Dealers nor the true terms imposed. Failure to disclose these particulars renders the description of this financing service inaccurate contrary to the requirements under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

82. Class members are asked to sign on a phone or tablet without notice of what it is that they are signing. This is made possible by the Program Agreements wherein Vault gives its Dealers direct access to its online lending platform. In most cases such as Ms. Quinn's case, the class member does not receive a copy of a Loan Agreement unless they demand it later on.

83. Even if the consumer is able to see the fine print of the Loan Agreement when signing under the pressure of the moment at the door, the fine print on the small screen of a phone or tablet is not comprehensible to the average consumer. This is further aggravated by the Dealers' systemic misrepresentations and fraud campaign to have unsuspecting consumers enter these consumer transactions.

84. Under both Consumer Agreements, the total amount of the principal of the loan, all fees and penalties, the interest charged thereon, the costs associated with the impact on each individual's credit reputation, plus the non-delivery of promised government rebates and credit, constituted the total amount payable by the consumer.

85. Nowhere in the Consumer Agreement is this total liability disclosed to any of the class members.

86. Lastly, in its enforcement of the Loan Agreements, Vault explicitly does not disclose to class members that it will continue to enforce agreements even if those agreements are premised on fraud and breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

87. Nowhere in the Consumer Agreement is it disclosed that any equipment or service provided is at a material markup, effectively building into the Loan Agreement an inordinately high interest rate that no homeowner of sound mind would willingly enter into.

88. The arrangement created by Vault failed to disclose and continues to fail to disclose this information and other material information required under the governing regulations to the plaintiff and other class members.

89. This information was material and required disclosure under the regulations, and it was not known until the defendant began enforcing the unlawful agreements.

90. Any attempt by Vault to enforce or collect on the Loan Agreements is unlawful, given the statutory non-compliance and the failure to make the required disclosures both for the underlying

Goods & Services Agreement upon which the Loan Agreements are premised and further for the Loan Agreements themselves.

ii. The Consumer Agreements breached remote agreement provisions

91. If any of the Consumer Agreements do not meet the definition of a direct agreement because it was executed remotely, such Consumer Agreements with the class members are remote agreements within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

92. Vault and its Dealers were required to comply with all statutory obligations applicable to such remote agreements.

93. Part IV of the *Consumer Protection Act* also governs remote agreements. Pursuant to section 45(1), before a consumer enters into a remote agreement, the supplier shall disclose the prescribed information to the consumer and shall satisfy the prescribed requirements as set out in the general regulations. Section 45 of the *Consumer Protection Act* and section 38 of the *General Regulations*, O. Reg. 17/05 prohibits a supplier from entering into a remote agreement unless the consumer is given an express opportunity to accept or decline the agreement and to correct errors before being bound.

94. Further, the *General Regulations*, O. Reg. 17/05, required at all material times that the supplier provide the consumer with an agreement setting out certain material information, including, but not limited to, a fair and accurate description of the prescribed good or service to be supplied, the total amount payable by the consumer under the agreement, and any other

restrictions, limitations, and conditions that are imposed by the supplier with respect to the agreement, including the consumer's responsibilities under the agreement.

95. The plaintiff repeats and relies on her pleadings above with respect to direct agreements, which equally apply to remote agreements, and were breached by Vault and its Consumer Agreements.

iii. Alternatively, the Loan Agreements breached credit agreement provisions

96. If the Loan Agreements with Vault are found not to be direct agreements or remote agreements, the Loan Agreements with the class members are "credit agreements" within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

97. In each case, these agreements were consumer agreements under which Vault extended credit or lent money to the class members.

98. The class members are "borrowers" within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, as parties to the Financing Agreements who purportedly received a loan of money from Vault, although neither plaintiff nor any class members actually received a loan from Vault: any and all funds went directly to Vault's own Dealers.

99. Vault is a "lender" within the meaning of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, as a supplier which is party to the Loan Agreements and which purported to loan money to the class.

100. Part VII of the *Consumer Protection Act,* and similar provisions of the Equivalent Consumer Protection Legislation, govern credit agreements. Section 77 of the *Consumer Protection Act* requires that no lender shall make representations or cause representations to be made with respect to a credit agreement, whether orally, in writing or in any other form, unless the representations comply with the prescribed requirements. That is, not only is there information that is statutorily mandated to be disclosed, but even further, no representations can be made in respect of credit agreements unless expressly in compliance with the requirements.

101. Pursuant to section 79 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, every lender shall deliver an initial disclosure statement for a credit agreement to the borrower at or before the time that the credit agreement is entered into. This initial disclosure statement shall disclose all brokerage fees and the prescribed information, which is provided under the general regulations of the statute, and includes the mandatory disclosure of certain material information.

102. The prescribed information required to be disclosed includes, but is not limited to, the total cost of borrowing, details about the interest rate under the agreement including relating to whether or not it may change during the term of the agreement, the total amount to be repaid under the agreement including all interest, fees, and other charges, and the rights and obligations of the parties upon default including acceleration.

103. Further, lenders are also required under section 80 of the *Consumer Protection Act* to provide continuing disclosure statements at least once every 12 months after entering into a fixed credit agreement with the prescribed information in the general regulations.

104. The prescribed information that must be included in these statements includes, but is not limited to, details about changes to the interest rate (if any) and how such changes affect the timing and amount of any payment the borrower is obligated to make under the credit agreement.

105. The Loan Agreements (and the Goods & Services Agreements) systemically failed to reach this minimum level of statutorily mandated disclosure.

106. Where, as here, such disclosure is not provided, pursuant to section 70 of the *Consumer Protection Act*, a borrower under a credit agreement, such as the Loan Agreements, is not liable to pay the lender the cost of borrowing under the credit agreement if no statements are received by the borrower, or any amount in excess of the amounts specified in the statements required to be delivered.

107. Pursuant to sections 18(14) and 94 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, where consumers rescind or cancel an agreement, which the class members seek to do here in respect of the totality of the Consumer Agreements, but especially the Goods & Services Agreements, this operates to cancel all related credit agreements.

108. As such, by the Loan Agreements' direct relation to the Goods & Services Agreements, particularly solidified through the Program Agreements, the Loan Agreements must be necessarily cancelled.

iv. The Consumer Agreements are premised on unfair practices

109. Section 14 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation prohibit unfair practices, and particularly false, misleading, or deceptive representations.

110. Such unfair practices include representations that misrepresent the authority of an agent to negotiate the final terms of an agreement and the failure to state a material fact if such failure deceives or tends to deceive a consumer.

111. Further, a consumer agreement where the price grossly exceeds the price at which similar goods or services are readily available to like consumers or where the terms of the consumer transaction are so adverse to the consumer as to be inequitable constitutes unfair practices contrary to section 15 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

112. Here, the Consumer Agreements' failure to disclose the material information particularized herein to the plaintiff and other class members constituted an unfair practice contrary to section 14 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

113. Further, the grossly inflated amounts that the defendant commonly structured into loans under the Loan Agreements and the grossly adverse unilateral terms of the Consumer Agreements render them unconscionable contrary to section 15 of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

114. Vault knew, or ought to have known, the illegality of these Consumer Agreements under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

115. Vault took advantage of the inability of the class members to reasonably protect their own interests because of the gross information asymmetry between the contracting parties and class members' ignorance or inability to realize the character and nature of the Consumer Agreements.

116. Vault is liable as a supplier for these unfair practices. Alternatively, pursuant to section 18(12) of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, Vault is jointly and severally liable for the unfair practices particularized above together with the Dealers who signed Consumer Agreements with the class members.

b. <u>The Consumer Agreements are unconscionable and invalid</u>

117. The Consumer Agreements are unconscionable and it would be inequitable in the circumstances to bind the class members to such agreements. The Consumer Agreements are extremely improvident bargains obtained under one-sided and abhorrent circumstances.

118. The class members were ordinary consumers, many of whom are vulnerable individuals who lacked legal or financial sophistication. Vault, by contrast, is a sophisticated lender that implemented the agreements through a controlled network of Dealers acting pursuant to standardized Program Agreements, which were never disclosed or available to consumers.

119. Class members were not given an opportunity to obtain independent legal or financial advice, nor any opportunity for meaningful review or to negotiate. They were, to the contrary, actively misled.

120. Rather, class members were presented with the one-sided documents by the Dealers and required to sign in order to obtain goods or services for their homes, under circumstances of artificially imposed time pressures, sales tactic pressures, and misrepresentations.

121. Class members were never advised that the Goods & Services Agreements were subject to Loan Agreements that involved long-term loans with material consequences for default, or that the total loan amount significantly exceeded the fair market value of the products or services provided—if any such products or services were delivered at all.

122. Vault's business model relied on the delegation of consumer-facing responsibilities to its Dealers, while retaining centralized control through its digital platform, Program Agreements, and funding structure. Vault knew or ought to have known that the Dealers were incentivized to engage in breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and target vulnerable consumers, but failed to intervene or modify its enforcement of the resulting agreements.

123. Moreover, and as pleaded above, Vault knowingly has continued to enforce Loan Agreements procured through misrepresentation, fraud, incomplete disclosures, and failures to provide functioning goods or services. It does so in order to benefit from the resulting financial obligations imposed on consumers.

124. The resulting Consumer Agreements are also particularly improvident and manifestly unfair for the following reasons:

(a) the total amount payable under the Consumer Agreements grossly exceeds the value of the goods and services;

(b) the interest rates and default provisions imposed significant risk and liability on consumers who had no opportunity to understand or mitigate them;

(c) the entire consumer transaction, including both the Goods & Services Agreement, the Loan Agreements, and the underlying Program Agreements which consumers were not made aware of, were structured in such a way that consumers had no real ability to walk away from the financing once initiated; and

(d) Vault proceeded to enforce these agreements knowing that the goods and services from which they stemmed were often non-existent, defective, or otherwise problematic, and in every instance cost far in excess of the real value of any such good or service being provided.

125. The unconscionable nature of these transactions is further aggravated by Vault's systemic control over and knowledge of the Dealers' conduct, its decision to continue funding and enforcing such agreements, and its deliberate indifference to the legal and practical consequences for class members.

126. Based on the foregoing, the Consumer Agreements are unconscionable in law and equity, and are therefore void and unenforceable.

c. <u>Vault conspired with each of its dealers</u>

127. Vault has engaged in a hub-and-spoke conspiracy with its Dealers, acting against the class. The hub of the conspiracy is Vault. Its spokes are each of its Dealers.

i. Unlawful means conspiracy

128. Vault is jointly and severally liable for conspiracy along with its Dealers and any other co-conspirators unknown to the plaintiff at this time. Together, they engaged in unlawful conduct directed at the class, a significant portion of which included consumers in vulnerable positions who were preyed upon because of their vulnerability.

129. As part of the conspiracy, Vault and the Dealers:

(a) dictated, authorized, or otherwise approved the terms of the Consumer Agreements which were in violation of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and unconscionable;

(b) implemented a scheme of widespread and systematic non-disclosure of material information to class members; and

(c) directed, encouraged, or otherwise authorized the improper enforcement of these agreements in order to compel class members to pay unconscionable sums.

130. As particularized above, by its own written Program Agreements, Vault played a material role that it exercised in the business of the Dealers as it related to the Consumer Agreements entered into with the class. Through its Program Agreements, Vault conspired to implement the wrongful and unlawful conduct and harm against the class.

131. Vault has been the *sine qua non* of the plaintiff's and class members' plight. Without Vault's actions, none of the class members would find themselves in the circumstances giving rise to this action.

132. Vault has been instrumental in the development of the scheme used by it and the Dealers to extort unconscionable sums from the class members.

133. Further, Vault conspired with the Dealers to engage in unfair practices by effectively requiring, and directly engaging in, the impugned unlawful practices, while continuing to finance, facilitate, encourage, direct, authorize, and condone the use of illegal Consumer Agreements for Vault's own benefit.

134. Vault's conduct was unlawful and contrary to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

135. The defendant knew or ought to have known that the unlawful conduct would result in injury to the class. The intended lucrative injury to the class in fact motivated the impugned conspiratorial conduct against the class.

136. The class suffered harm and losses as a result of this conspiracy including, but not limited to, damages for financial loss, credit impairment, and mental distress.

ii. Predominant purpose conspiracy

137. Vault and its Dealers are jointly liable for predominant purpose conspiracy. They acted for the unlawful purpose of manipulating the subject consumer market for financial gain by:

(a) exploiting vulnerable consumers by facilitating, coordinating, and authorizing the predatory sales tactics of the door-to-door Dealers;

(b) failing to take steps to ensure that the obligations of the Dealers under the Program Agreements were fulfilled as required;

(c) systemically failing to disclose, encouraging the non-disclosure of, and condoning the non-disclosure of material information to class members;

(d) dictating, authorizing, and requiring the unlawful and unconscionable terms of the Consumer Agreements, the sole operative purpose of which has been to maximize Vault's gain which directly equals the class's loss; and

(e) continuing to enforce unlawful Consumer Agreements notwithstanding knowledge that such agreements are contrary to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

138. Vault knew or ought to have known that the impugned conduct would result in injury to the class. The intended injury to the class in fact motivated Vault's conspiratorial conduct against the class.

139. The class suffered harm and losses as a result of this conspiracy including, but not limited to, damages for financial loss, credit impairment, and mental distress.

d. <u>Vault's common design with its Dealers</u>

140. Vault engaged in a common design with its Dealers to maximize their unlawful profits through the Consumer Agreements at the expense of the class. As such, Vault is jointly and severally liable for the unlawful conduct if each of the Dealers that dealt with the class.

141. Vault assisted the Dealers in carrying out the unlawful conduct particularized herein against the class. Indeed, without Vault's assistance, none of the Dealers could or would have been incentivized to engage in any of the impugned conduct against the class.

142. Vault's common design with its Dealers—in part memorialized in the Program Agreements and in part built upon the practical realities of needing to be unlawful to become as profitable as they wish—led to the Dealers' conduct against the class.

143. Vault's Program Agreements are premised on unlawful conduct in order to be financially rewarding to Vault and its Dealers. Without Vault's common design with these Dealers, no consumer of rational mind would find the arrangement offered by the Dealers attractive. Consumers would not agree to be bound if they knew the true terms being imposed on them.

144. This common design is further evidenced by Vault's knowledge for years that Dealers engage in anti-consumer fraud to make the Consumer Agreements profitable, and Vault's turning a blind eye and continuing to profit off of the class.

G. REMEDIES

a. Damages, rescission, declaratory relief

145. As a result of the conduct pleaded above, the plaintiff and the other class members have suffered loss and damage in an amount to be determined at trial.

146. The Consumer Agreements must be rescinded or cancelled in their entirety pursuant to the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation.

147. Alternatively, class members are entitled to a declaration that the Goods & Services Agreements and Loan Agreements are not binding on them, and to restitution of all payments made under the agreements.

148. Class members seek damages for breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, including, but not limited to, damages for financial loss, amounts paid, credit impairment, and mental distress, and any other remedy this Honourable Court deems just.

149. Further, pursuant to sections 18(14) and 94-95 of *the Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, where consumers rescind or cancel an agreement, which the class members seek to do here in respect of all of the Consumer Agreements, such rescission or cancellation operates to cancel all related credit agreements. As such, by the direct relation between the Loan Agreements and the Goods & Services Agreements as solidified through the Program Agreements, rescission or cancellation of either the Goods &

Services Agreements or the Loan Agreements must necessarily result in the cancellation of the other.

150. It is in the interests of justice to waive any notice requirements under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, particularly as the defendant concealed the actual state of affairs from the class members for their own benefit.

151. Further, the plaintiff and the other class members seek damages at common law for, amongst other things, the amounts by which the class members' payment under the Consumer Agreements exceed the value that the goods or services have to the class members, damages to the credit reputation of class members as a result of having been misled to enter into these unconscionable loans, and all of their out of pocket and inconvenience damages.

152. In the alternative to damages, the plaintiff and the other class members claim the remedy of disgorgement of the profits generated by Vault as a result of the wrongful conduct particularized herein. Disgorgement is appropriate for the following reasons, among others:

(a) Vault made profits as a result of the breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation and their conspiracy to defraud the class, and its common design;

(b) Vault made profits in such a manner that Vault cannot in good conscience retain it;

(c) the integrity of the marketplace would be undermined if Vault were to profit from the wrongful conduct;

(d) absent the wrongful conduct, class members would not have entered into the Consumer Agreements, and Vault would never have received profits arising from the Consumer Agreements; and

(e) disgorgement of profits retained by Vault would serve a compensatory purpose.

b. Interlocutory and permanent injunction

153. As particularized above, the impugned conduct is ongoing. Vault continues to enforce Loan Agreements which it knows or ought to have known were premised on fraud and breaches of the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation. In many cases, this has included reporting class member's delinquencies and non payments to credit agencies.

154. The impugned conduct is causing irreparable harm to the class. Vault should be enjoined from engaging in the impugned conduct until the resolution of this action on its merits.

155. Further, Vault should be permanently enjoined from engaging in the conduct particularized herein.

156. Vault's conduct, and in particular Vault's ability to continue to enter into further Program Agreements with Dealers which condone the same conduct, its aggressive collections tactics, and the propagation of unfair and predatory practices in this market is sufficiently likely to occur or recur in the future. As such, it is not only appropriate, but necessary, for the Court to exercise its equitable jurisdiction to grant an injunction.

157. In the context of the consumer market at issue, no alternative will provide reasonably sufficient protection against the threat of the continued occurrence of the impugned wrongdoing. Absent an injunction, nothing stops Vault from continuing to partner with predatory door-to-door companies to repeat the same conduct at issue in this action.

c. Restitution for unjust enrichment

158. Vault has been unjustly enriched to the extent that it has charged and retained unlawful fees, interest, and other amounts under the Consumer Agreements.

159. The class members suffered a deprivation corresponding to Vault's enrichment.

160. The Consumer Agreements being unenforceable, there is no juristic reason for the defendant's enrichment and the class members' corresponding deprivation.

161. Accordingly, the class members are entitled to restitution.

162. In particular, Vault's conduct amounts to an unjust enrichment at the expense of the class. By continuing to demand and, in some cases, collect payments under unlawful and void agreements, Vault has received and retained benefits to which it was never legally entitled. The class seeks restitution and a declaration that all amounts collected by Vault under these illegal agreements be returned.

d. Punitive damages

163. Due to the egregious nature of Vault's conduct, the plaintiff and other class members are entitled to recover aggravated, punitive, and exemplary damages.

164. The wrongful conduct particularized here was willful, deliberate, high-handed, outrageous, callous, and in contemptuous disregard of consumer rights and interests.

165. Vault has callously taken advantage of consumers' vulnerabilities to trap consumers in a scheme that threatened to deprive them of their homes.

166. Further, the plaintiff and the other class members are entitled to punitive damages under the *Consumer Protection Act* and similar provisions of the Equivalent Consumer Protection Legislation, and at common law to relieve the defendant of their wrongful profits made while flouting the law.

H. FRAUDULENT CONCEALMENT

167. Vault and its Dealers willfully concealed the unlawfulness of the Consumer Agreements from the plaintiff and the other class members, who plead and rely on the doctrine of fraudulent concealment to assert that any applicable statute of limitation has been tolled by the defendant's knowledge, concealment, and denial of facts which prevented the class from discovering their cause of action.

168. Vault continues to actively conceal the identity of the companies, other than the ones presently known and listed herein, that it has used in its "network" of Dealers to perpetuate its scheme of entering into and enforcing unlawful Consumer Agreements.

169. In addition, the plaintiff and the class could not reasonably have known that loss or damage had occurred, that it was caused or contributed to by acts of the defendant, or that a court proceeding would be an appropriate means to seek to remedy the injury until this action was filed.

170. As such, the plaintiff and the class plead and rely on the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched B, section 5, and on the doctrines of postponement and discoverability to postpone the running of the limitation period until the date on which this action is commenced.

171. The plaintiff and the class also plead and rely on the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020,* S.O. 2020, c. 17, O. Reg. 73/20 to suspend the running of the limitation period from March 16, 2020, to September 13, 2020.

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Court File No.

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SUPERIOR COURT OF JUSTICE

Proceeding commenced at Windsor

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

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