

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

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT,

R.S.O 1990, C. C. 43, AS AMENDED

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF
CARRIAGE RIDGE OWNERS ASSOCIATION**

(together, the “Applicants”)

MOTION RECORD

(returnable March 8, 2021)

Date: March 1, 2021

AIRD & BERLIS LLP

Barristers & Solicitors
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*Lawyers for the Receiver, BDO
Canada Limited*

TO THE ATTACHED SERVICE LIST

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Court File No. CV-20-00640266-00CL

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

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT,

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**MOTION RECORD
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TAB 1

Court File No. CV-20-00640266-00CL

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

**IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O 1990, C. C. 43, AS AMENDED**

**AND IN THE MATTER OF THE ADMINISTRATION PROCEEDINGS OF
CARRIAGE RIDGE OWNERS ASSOCIATION**

**NOTICE OF MOTION
(returnable March 8, 2021)**

BDO Canada Limited (“**BDO**”), in its capacity as receiver (in such capacity, the “**Receiver**”) over all of the assets, properties and undertakings of Carriage Ridge Owners Association (the “**Applicant**”) and the Carriage Hills Vacation Owners Association (the “**Hills Association**” and together with the Applicant, the “**Associations**”) all the lands and premises on which the Applicant operated the Carriage Ridge Resort (the “**Ridge Property**”) all the lands and premises on which the Hills Association operated the Carriage Hills Resort (together with the Ridge Property, the “**Resort Properties**”), appointed by Orders of the Court with effect as of January 6, 2021, will make a motion to a judge presiding over the Commercial List on Monday, March 8, 2021 at 9:00 a.m., or as soon after that time as the motion can be heard, by judicial video conference at Toronto, Ontario. Please refer to the conference details attached as **Schedule “A”** hereto in order to attend the motion and advise if you intend to join the motion by emailing Sam Babe at sbabe@airdberlis.com.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

1. THE MOTION IS FOR:

- (a) an Order, substantially in the form attached hereto as **Schedule “B”** (the “**Order**”), among other things:

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- (i) approving Second Report of the Receiver dated March 1, 2021 (the “**Second Report**”) and the activities of the Receiver set out therein;
- (ii) approving the form and content of the Settlement Proposal to be sent to those of the Applicant’s members (the “**Subject Members**”) who are subject to the Receiver’s Collection Plan Order made February 16, 2021 (the “**Collection Plan Order**”);
- (iii) amending the timeline of the collection plan set out in the Collection Plan Order (the “**Collection Plan**”); and
- (iv) approving the retention of independent accountants by the Receiver,

and such further and other relief as counsel may advise and this Court may permit.

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

- (a) pursuant to an Appointment Order of the Court made by the Honourable Justice Conway on May 15, 2020, BDO was appointed as the administrator of the Applicant (in such capacity, the “**Administrator**”) pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the “**CJA**”);
- (b) pursuant to an Order of the Court made by Justice Conway on December 11, 2020 (collectively, the “**Amended and Restated Appointment Orders**”), BDO was appointed as Receiver, with effect as of January 6, 2021, being the date of closure of the Resort Properties;
- (c) pursuant to an Order of the Court made by Justice Conway on February 16, 2021, a claims bar process was approved;
- (d) also on February 16, 2021, Justice Conway made the Collection Plan Order, approving the Collection Plan;

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- (e) the Amended and Restated Appointment Order directs and empowers the Receiver to report to the Court in respect of these proceedings at such times and intervals as the Receiver may deem appropriate;
- (f) the Receiver has filed with the Court its Second Report outlining, among others things (i) updated information on delinquent member accounts, (ii) its suggested framework for Settlement Offers (as defined in the Collection Plan Order) and (iii) the need to re-engage the Associations' external accountants, and the Receiver seeks this Court's approval of the same;
- (g) the Collection Plan is aimed only at those of the Applicant's members who:
 - (i) are not subject to an existing payment arrangement with the Applicant's collections agent;
 - (ii) are not subject to exiting litigation over their debts to the Applicant; and
 - (iii) are not subject to any *Bankruptcy and Insolvency Act* bankruptcy or proposal proceeding staying the pursuit of the Receiver's Claims;
- (h) pursuant to the Collection Plan Order, the Receiver is to demand payment of the total outstanding account from each Subject Member (the "**Receiver's Claim**") including principal, late fees, finance and other charges, the \$1,000 delinquency fee approved by Order of Justice Conway made July 2, 2020 (the "**Delinquency Fee**") and the \$500 collection fee contemplated in the form of Receiver's Claim appended to and approved by the Collection Plan Order.
- (i) the Collection Plan Order also requires the Receiver to issue a notice to each Subject Member setting out the payment amount that the Receiver is prepared to accept in settlement of the Receiver's Claim (the "**Settlement Offer**"), which Settlement Offer would be open to acceptance (including by way of payment) for thirty days.

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- (j) the Receiver seeks this Court's approval of the form of Settlement Offer is substantially the form attached as Schedule "A" to the Order;
- (k) consistent with the settlement policy of each of Associations prior to the appointment of the Receiver, but subject to 2(m) below, the Receiver proposes that each Settlement Offer shall offer to compromise all late fees, administrative fees, accrued financing and other charges from the outstanding account balance (collectively, the "**Discount**"), and the Receiver seeks the Court's approval of the same;
- (l) the amount of each Settlement Offer would then be comprised of:
 - (i) any unpaid maintenance fees, reserve fees, property taxes and applicable sales taxes;
 - (ii) the \$1,000 Delinquency Fee; and
 - (iii) the \$500 Collection Fee;
- (m) the Receiver proposes not to issue Settlement Offers to Subject Members whose accounts, apart from the Delinquency Fee and the Collection Fee:
 - (i) include only interest and late fees but no unpaid fees, reserve fees, property taxes or sales taxes; or
 - (ii) do not exceed \$50,(the "**Small Account Subject Members**");
- (n) the Receiver does not propose to relieve the Small Account Subject Members from their obligations but believes that it will be more efficient to make determinations as to recovery from these parties following the completion of the sales process for the Resort Properties and seeks the Court's approval of the same;

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- (o) the Collection Plan Order requires the Receiver to send out a Claims Package (as defined therein) within seven (7) days following the comeback hearing in respect of the Collection Plan Order;
 - (p) due to the significant volume and customization required to prepare the Claims Packages for all Subject Member, the Receiver seeks an amendment to the Collection Plan Order to increase the number of days for service of the Claims Package from seven (7) days following the Comeback Date to fourteen (14) days following the Comeback Date
 - (q) subparagraph 4(d) of the Amended and Restated Appointment Order empowers and authorizes the Receiver to engage or retain auditors or accountants to assist with the Receiver's powers and duties where the Receiver considers it necessary or desirable;
 - (r) the Receiver requires an independent review engagement of the Associations' 2020 financial statements in order to complete all necessary tax filings;
 - (s) the Associations had previously engaged Powell Jones LLP as their external accountants for similar purposes;
 - (t) the other grounds set out in the Second Report;
 - (u) the Appointment Order;
 - (v) section 101 of the *CJA*, as amended;
 - (w) rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
 - (x) such further and other grounds as counsel may advise and this Court may permit.
3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

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- (a) the Second Report, filed; and
- (b) such further and other material as counsel may submit and this Court may permit.

Date: March 1, 2021

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*Lawyers for BDO Canada Limited in its
capacity as Court-appointed Receiver of
Carriage Ridge Owners Association*

TO: ATTACHED SERVICE LIST

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O
1990, C. C. 43, AS AMENDED**

**AND IN THE MATTERS OF THE ADMINISTRATION PROCEEDINGS OF CARRIAGE RIDGE
OWNERS ASSOCIATION**

Court File No. CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

NOTICE OF MOTION
(Returnable March 8, 2021)

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*Lawyers for BDO Canada Limited in its capacity as Court-appointed
Receiver of Carriage Ridge Owners Association*

TAB A

Schedule “A” Video Conference Details

March 8, 2021 at 9am for 20 min.

Join Zoom Meeting

<https://airdberlis.zoom.us/j/93758705738?pwd=R1gwTWp5dW5xYlNzd0pUY1pKcjNwUT09>

Meeting ID: 937 5870 5738

Passcode: 707026

One tap mobile

+16475580588,,93758705738#,,,,*707026# Canada

+17789072071,,93758705738#,,,,*707026# Canada

Dial by your location

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 204 272 7920 Canada

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 647 374 4685 Canada

Meeting ID: 937 5870 5738

Passcode: 707026

Find your local number: <https://airdberlis.zoom.us/u/aeGPZpNoAD>

Sync Link:

<https://ln2.sync.com/dl/e05deccd0/wkbg5pap-azzasiss-hdqzxvzy-c4jk3mze>

TAB B

Court File No. CV-20-00640266-00CL

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

THE HONOURABLE MADAM	)	MONDAY, THE 8 TH
)	
JUSTICE CONWAY	)	DAY OF MARCH, 2021

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE RIDGE OWNERS
ASSOCIATION**

ORDER

THIS MOTION made by BDO Canada Limited (“**BDO**”), in its capacity as receiver (in such capacity, the “**Receiver**”) over all of the assets, properties and undertakings of the Carriage Ridge Owners Association (the “**Applicant**”) and all the lands and premises on which the Applicant operated the Carriage Ridge Resort, appointed by an Amended and Restated Appointment Order (the “**Receivership Order**”) with effect as of January 6, 2021, for an Order, *inter alia*, (i) approving the Second Report of the Receiver dated March 1, 2021 (the “**Second Report**”) and the activities of the Receiver set out therein, (ii) approving the form and content of the Settlement Proposal to be sent to those of the Applicant’s members (the “**Subject Members**”) who are subject to the Receiver’s Collection Plan Order made February 16, 2021 (the “**Collection Plan Order**”), (iii) amending the timeline of the collection plan set out in the Collection Plan Order, and (iv) approving the engagement of external accountants by the Receiver was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Receiver dated March 1, 2021 (the “**Motion Record**”) and the Second Report, and on hearing the submissions of counsel for the Receiver, **[counsel for Wyndham Worldwide Corporation, and counsel for Lori Smith and Karen Levins and the submissions of Christopher Diana,]** no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of **<*>** sworn March **<*>**, 2021,

SERVICE

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

APPROVAL OF ACTIVITIES

2. **THIS COURT ORDERS** that the Second Report and the Receiver’s activities set out therein be and are hereby approved.

SETTLEMENT OFFERS

3. **THIS COURT ORDERS** that the form and substance of the settlement offer to Subject Members (the “**Settlement Offer**”), substantially in the form attached as **Schedule “A”** hereto, is hereby approved with such minor changes as the Receiver may, from time to time, consider necessary or desirable.

4. **THIS COURT ORDERS** that, for purposes of the Settlement Offers, the Discounts, as defined in and calculated in accordance with sections 2.2.3 and 2.2.4 of the Seconds Report, are hereby approved for Subject Members whose accounts, apart from the Court-imposed Delinquency Fee and the Receiver-assessed Collection Fee (as such terms are defined in the Second Report): (a) exceed \$50; and (b) include unpaid fees, reserve fees, property taxes and/or sales taxes.

5. **THIS COURT ORDERS** that the Receiver is authorized and directed not to serve Settlement Offers on Subject Members whose accounts, apart from the Delinquency Fee and the Collection Fee:

- a. include only interest and late fees but no unpaid fees, reserve fees, property taxes or sales taxes; or
- b. do not exceed \$50,

(collectively, the “**Small Account Subject Members**”) until further Order of this Court, and that the Collection Plan Order, including its Schedules, is hereby amended accordingly.

COLLECTION PLAN

6. **THIS COURT ORDERS** that paragraph 10 of the Collection Plan Order is hereby amended to increase the number of days for service of the Claims Package from seven (7) days following the Comeback Date to fourteen (14) days following the Comeback Date (as such capitalized terms are defined in the Collection Plan Order).

ENGAGEMENT OF ACCOUNTANT

7. **THIS COURT ORDERS** that the engagement of Powell Jones LLP by the Receiver, as authorized by paragraph 4(d) of the Receivership Order and for the purposes described in the Second Report, is hereby approved.

GENERAL

8. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

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

SCHEDULE “A”

Court File No. CV-20-00640265-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CARRIAGE RIDGE OWNERS ASSOCIATION, by its Court-
appointed receiver, BDO CANADA LIMITED

Claimant

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
APPENDIX “A”

Respondent

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE RIDGE OWNERS
ASSOCIATION**

SETTLEMENT OFFER

The Claimant, Carriage Ridge Owners Association (the “**Association**”) by its Court-appointed receiver, BDO Canada Limited (in such capacity, the “**Receiver**”), offers to settle the Receiver’s Claim enclosed with this Settlement Offer on the following terms:

1. The Subject Member shall pay to the Receiver the amount identified as the Proposed Account Settlement as set out on the attached **Appendix “A”** (the “**Settlement Amount**”).

2. For the purpose of encouraging settlements, a litigation avoidance discount, approved by Order of Madam Justice Conway of the Ontario Superior Court of Justice made March 8, 2021 (the “**Discount**”), has been incorporated into the Settlement Amount. The Discount is equal to the aggregate amount of all late fees, administrative fees, accrued financing and other charges assessed by the Association against the Subject Member’s account but does not include any amount in respect of the \$1,000 Delinquency Fee charged pursuant to the Order of Madam Justice Conway made July 2, 2020, or any amount in respect of the \$500 Collection Fee assessed by the Receiver.
3. The Receiver shall accept payment of the Settlement Amount in full and final settlement of the Receiver’s Claim if this Settlement Offer is accepted and payment is made by no later than thirty (30) days from the date of service of this Settlement Offer (the “**Acceptance of Settlement Deadline**”).
4. The Receiver shall provide any Subject Member who pays the Settlement Amount by the Acceptance of Settlement Deadline with confirmation of full and final satisfaction of the Receiver’s Claim.
5. If you wish to accept this Settlement Offer, you must execute Appendix “A” and return the executed document together with the Settlement Amount to the Receiver by the Acceptance Settlement Deadline. The required payment and the executed Settlement Offer may be delivered by prepaid registered mail, courier or personal delivery to:

BDO CANADA LIMITED

20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Ridge Collections

6. Note that this Settlement Offer is not made in respect of, nor will acceptance of this Settlement Offer compromise, any amounts owing by the Subject Member to the Association that do not form part of the Receiver's Claim. These excluded amounts will include any amounts subject to:
- (a) a legal proceeding for the collection thereof already commenced by the filing of a claim; or
 - (b) a payment plan agreed to between the member and the Applicant's collections agent, where the member is not in default under such plan.

Date: , 2021

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*Lawyers for BDO Canada Limited in its
capacity as the court-appointed Receiver of
Carriage Ridge Owners Association*

**Settlement Offer Appendix "A"
Proposed Account Settlement**

Subject Member Name: <*>
Subject Member Carriage Ridge Owners Association Account No.: <*>

Proposed Account Settlement amount = \$ <*>

This Settlement Offer must be accepted by return of the acceptance below along with payment of the above amount within thirty (30) days from the date of service of this Settlement Offer.

* * *

In consideration of the Settlement Offer and the Discount contained therein, the undersigned Subject Members hereby accepts the Settlement Offer as of the ____ day of _____, 2021 and encloses herewith irrevocable payment in the amount of the Proposed Account Settlement.

Witness Name:) <*> _____
)
)
)
)
)
)
)

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O
AND IN THE MATTERS OF THE ADMINISTRATION PROCEEDINGS OF CARRIAGE RIDGE OWNERS ASSOCIATION**

Applicant

Court File No. CV-20-00640266-00CL

***ONTARIO*
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceedings commenced at Toronto**

ORDER

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*Lawyers for BDO Canada Limited in its capacity as the
court-appointed Receiver of Carriage Ridge Owners
Association*

TAB 2

Court File No. CV-20-00640265-00CL
Court File No. CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O 1990, c. C. 43, AS AMENDED

AND IN THE MATTER OF THE RECEIVERSHIP PROCEEDINGS OF
CARRIAGE HILLS VACATION OWNERS ASSOCIATION
AND
CARRIAGE RIDGE OWNERS ASSOCIATION

(together, the “Applicants”)

SECOND REPORT OF THE RECEIVER
BDO CANADA LIMITED

March 1, 2021

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- Appendix E - Carriage Hills Amended and Restated Appointment Order, dated December 11, 2020
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- Appendix G - Carriage Hills Collections Plan Order dated February 16, 2021
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- Appendix I - Carriage Hills Delinquency Fee Order, dated July 2, 2020
- Appendix J - Carriage Ridge Delinquency Fee Order, dated July 2, 2020
- Appendix K - Form of Settlement Offer

1.0 INTRODUCTION AND PURPOSE OF REPORT

1.1 Introduction

- 1.1.1 The Carriage Hills Resort (the “**Hills Resort**”) and the Carriage Ridge Resort (the “**Ridge Resort**”) and collectively with the Hills Resort, the “**Resorts**”) are time-share resorts located in Horseshoe Valley, Township Oro (now part of Barrie), Ontario. The Hills Resort consists of 172 residential resort units in eight residential buildings, while the Ridge Resort consists of 78 residential resort units in three residential buildings. Both the Hills Resort and Ridge Resort have various common recreational facilities including, but not limited to, an indoor and outdoor pool, a gym and a management building. The Hills Resort was built in three phases on approximately twenty acres of real property and the Ridge Resort was built in one phase on approximately eight acres of real property (the buildings and real property of the Resorts are collectively referred to as the “**Resort Assets**”).
- 1.1.2 The Resorts are each governed pursuant to a time-share agreement (collectively, the “**TSAs**”). Pursuant to the TSAs, purchasers of the time-share intervals (the “**Members**”) also purchased a proportionate ownership interest, as tenants-in-common, in the land on which the Resorts are situated.
- 1.1.3 The Carriage Hills Vacation Owners Association (the “**Hills Association**”) was established as a not-for-profit entity and incorporated by letters patent on August 6, 1996, as a corporation without share capital under the *Corporations Act (Ontario)* to operate the Hills Resort. The Carriage Ridge Owners Association (the “**Ridge Association**”) and together with the Hills Association, the “**Associations**”) was established as a not-for-profit entity and incorporated by letters patent on August 7, 2003, as a corporation without share capital under the *Corporations Act (Ontario)* to operate the Ridge Resort.
- 1.1.4 On May 15, 2020, BDO Canada Limited (“**BDO**”) was appointed Administrator pursuant to the orders of Madam Justice Conway (“**Administrator Appointment Orders**”). Copies of the Administrator Appointment Orders are attached hereto as **Appendices “A” and “B”**.
- 1.1.5 Pursuant to the orders of Madam Justice Conway dated October 15, 2020 (the “**Resort Closure Orders**”) the operations of the Hills Resort and Ridge Resort ceased effective January 6, 2021 (the “**Resort Closure Date**”). Copies of the Resort Closure Orders are attached hereto as **Appendices “C” and “D”**.
- 1.1.6 Pursuant to the orders of the Madam Justice Conway dated December 11, 2020, BDO was appointed as receiver (the “**Receiver**”) over the Resort Assets and all of the assets, properties and undertakings of the Associations (the “**Associations’ Property**”) and collectively with the Resort Assets, the “**Property**”) effective the Resort Closure Date, January 6, 2021 (the “**Amended and Restated Appointment Orders**”). Copies of the Amended and Restated Appointment Orders are attached hereto as **Appendices “E” and “F”**. The Administrator’s appointment was

transitioned to a receivership appointment (the “**Receivership**”), which became effective on January 6, 2021.

1.1.7 On February 5, 2021, the Receiver brought a motion to, among other things, seek approval of the Receiver’s proposed delinquent accounts (the “**Delinquent Accounts**”) collection plan (the “**Collection Plan**”). The Collection Plan is a procedure for identifying and prosecuting claims to be advanced by the Receiver against certain Delinquent Members (as defined herein). Madam Justice Conway approved the Collections Plan on February 16, 2021 (the “**Collections Plan Orders**”). Copies of the Collection Plan Orders are attached hereto as **Appendices “G” and “H”**.

1.1.8 Additional background information can be found on the Receiver’s case website at <https://www.bdo.ca/en-ca/extranets/carriage/>. The case website was established to facilitate the sharing of information with Members and other interested parties.

1.2 Purpose of this Report

1.2.1 The purpose of this second report of BDO in its capacity as Receiver (the “**Second Report**”) is to seek an Order:

- a) approving this Second Report and the activities of the Receiver described herein;
- b) approving the Settlement Proposal for accounts of Subject Members (as defined herein) as detailed in this Second Report;
- c) approving the Form of Settlement Offer contained in paragraph 2.2.2 of the Second Report;
- d) amending the Collection Plans Orders to increase the time from seven (7) days to fourteen (14) calendar days for the Receiver to send the Claims Packages to Subject Members; and
- e) approving and authorizing the Receiver to retain Powell Jones LLP to complete review engagements for the Associations’ calendar 2020 financial affairs.

1.3 Disclaimer

1.3.1 In preparing this Second Report and in conducting its analysis and recommendations, the Receiver has obtained and relied upon information provided to it by the Associations and other relevant parties. The Receiver’s procedures did not constitute an audit or review engagement of the Associations financial reporting or other verification of such information.

1.3.2 This Second Report has been prepared for the use of this Court and the Associations’ stakeholders to provide general information to assist the Court in making a determination on whether to grant the relief sought herein. Accordingly,

the reader is cautioned that this Second Report may not be appropriate for any other purpose.

- 1.3.3 Except as otherwise described in this Second Report, the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook. The Receiver expresses no opinion or other form of assurance with respect to such information except as expressly stated herein.
- 1.3.4 All monetary amounts contained herein are expressed in Canadian dollars unless otherwise noted.

2.0 COLLECTION PLAN

2.1 Delinquent Accounts

- 2.1.1 As more fully described in the Third Report of the Administrator, each Member purchased at least one timeshare interval (an “Interval”) in one of the Resorts and many Members purchased more than one Interval at one of, or both, Resorts. The Associations have a combined total of approximately 11,400 individual Members who own a total of 17,408 Intervals.
- 2.1.2 Pursuant to the TSAs, a Member remains contractually bound for liabilities and obligations associated with their Intervals (“Charges”) indefinitely unless the Member sells their interest in their Interval(s) to another person in accordance with the terms of the applicable TSA. Over the last number of years, a growing number of Members have not paid their Charges. These non-paying Members are, hereinafter, collectively referred to as the “Delinquent Members” which term, for greater certainty, includes both Subject Members and Non-Subject Members, as such terms are defined in the Collections Plans Orders.
- 2.1.3 A \$1,000 delinquency fee (the “Delinquency Fee”) was approved to be charged to all Delinquent Members as at September 30, 2020 pursuant to the Orders of Madam Justice Conway made on July 2, 2020 (the “Delinquency Fee Orders”). The Delinquency Fee was added to the Delinquent Member’s account after September 30, 2020. Copies of the Delinquency Fee Orders are attached hereto as Appendices “I” and “J”.
- 2.1.4 The table below summarizes the Delinquent Accounts as at January 31, 2021. As presented, there are 2,513 Delinquent Members that collectively own 3,001 Intervals and are recorded as owing in excess of \$29.3 million, including late fees, finance charges and the Delinquency Fee.

Summary of Delinquent Accounts as at January 31, 2021				
		Carriage Hills	Carriage Ridge	Total
# of Delinquent Members		1,607	906	2,513
# of Intervals		1,952	1,049	3,001
Basic charges:				
Maintenance fee		\$ 6,351,437	\$ 3,446,400	\$ 9,797,838
Reserve fee		1,447,781	624,621	2,072,402
Property tax		458,196	246,163	704,359
Sales tax		977,252	505,712	1,482,964
Total basic charges	[A]	9,234,666	4,822,897	14,057,563
Fees & interest:				
Late fee		3,700,516	2,940,210	6,640,726
Financing & other fees		3,204,661	2,609,642	5,814,304
Total fees & interest	[B]	6,905,177	5,549,852	12,455,029
Delinquency fee	[C]	1,892,000	948,000	2,840,000
Total Delinquent Accounts	[A+B+C]	\$ 18,031,844	\$ 11,320,749	\$ 29,352,592

- 2.1.5** The number of Delinquent Members presented in the above table differs from the number of Delinquent Members presented in the Receiver's First Report to the Court. This is due to the Receiver reconciling information with the Associations' previous accounts receivable database service provider.
- 2.1.6** In light of the dollar value and quantum of the Delinquent Accounts, the Receiver developed the Collection Plan, as approved by the Collections Plan Orders, to prosecute claims against certain of the Delinquent Members (the "**Subject Members**") in respect of amounts owed which:
- are not subject to an existing payment arrangement with the Associations' collection agency;
 - are not subject to existing litigation; and
 - are not subject to an insolvency proceeding.
- 2.1.7** Based on a review of the amounts owed by Subject Members, the Receiver proposes to focus its collection plan on accounts of Subject Members:
- with balances exceeding \$50; and
 - where the account balances do not consist only of non-Court ordered late fees and Interest (i.e. no Basic Charges).
- 2.1.8** Subject Members with account balances less than \$50 or which consist solely of interest or non-Court ordered fees are collectively referred to as "**Small Account Subject Members**". Although Small Account Subject Members are a sub-class of Subject Members, for the remainder of this Report they are treated as a separate class. The Receiver does not propose to relieve Small Account Subject Members from their obligations but believes that it will be more efficient to make

determinations as to recovery from these parties following the completion of the Sales Process.

- 2.1.9** The table below summarizes the Delinquent Accounts stratified by Subject Members, Small Account Subject Members and Non Subject Members. Combined there are 211 Small Account Subject Members with a total combined balance owing of approximately \$50,000, which the Receiver proposes would not form part of the Collection Plan. There are a combined 2,064 other Subject Members with a total balance owing in excess of \$24.2 million, which are subject to the Collection Plan. There are a combined 261 Non Subject Members with a total balance owing of approximately \$5.1 million, which do not form part of the Collection Plan.

Breakdown of Subject Members, Small Account Subject Members and Non Subject Members as at January 31, 2021				
		Carriage Hills	Carriage Ridge	Total
# of Subject Members		1,424	640	2,064
# of Small Account Subject Members		147	64	211
# of Non Subject Members		53	208	261
# of Delinquent Members on both the Subject Members and Non Subject Members lists		(17)	(6)	(23)
# of Delinquent Members		1,607	906	2,513
Subject Members	[A]	\$ 16,057,062	\$ 8,153,432	\$ 24,210,494
Small Account Subject Members:				
Balance below \$50		427	580	1,007
No Basic Charge balance		29,701	19,181	48,883
Total Small Account Subject Members	[B]	30,129	19,761	49,889
Non Subject Members:				
Payment plans and litigation		1,871,738	1,528,038	3,399,775
Insolvency proceedings		72,915	1,619,519	1,692,433
Total Non Subject Members	[C]	\$ 1,944,653	\$ 3,147,556	\$ 5,092,209
Total Delinquent Accounts	[A+B+C]	\$ 18,031,844	\$ 11,320,749	\$ 29,352,592

- 2.1.10** The Receiver has applied a \$500 fee (the “**Collection Fee**”) to all Subject Members’ (as well as the Small Account Subject Members’) accounts to compensate the estates for the Receiver’s costs and legal fees associated with the Collection Plan as described in the First Report of the Receiver. The table below details the composition of the Receiver’s Claim (as defined herein) against the Subject Members (excluding the Small Account Subject Members’ accounts). The Receiver’s Claim totals approximately \$25.4 million.

Breakdown of Receiver's Claim Against Subject Members				
		Carriage Hills	Carriage Ridge	Total
Basic Charge:				
Maintenance fee	\$	5,686,245	\$ 2,400,925	\$ 8,087,170
Reserve fee		1,290,094	447,437	1,737,532
Property tax		406,165	170,021	576,186
Sales tax		869,987	353,300	1,223,288
Total basic charges	[A]	8,252,491	3,371,684	11,624,175
Fees & interest:				
Late fees		3,285,639	2,003,719	5,289,358
Financing & other fees		2,840,933	2,076,028	4,916,961
Total fees & interest	[B]	6,126,572	4,079,747	10,206,319
Delinquency Fee	[C]	1,678,000	702,000	2,380,000
Total Delinquent Accounts	[A+B+C]=[D]	16,057,062	8,153,432	24,210,494
Collection Fee	[E]	840,500	354,000	1,194,500
Receiver's Claim	[D+E]	\$ 16,897,562	\$ 8,507,432	\$ 25,404,994

2.2 Settlement Offer

- 2.2.1 Pursuant to the Collection Plan Orders, the Receiver will demand payment of the entire outstanding account from each Subject Member including principal, late fees, finance and other charges, the Delinquency Fee and the Collection Fee (the “Receiver’s Claim”).
- 2.2.2 Pursuant to paragraph 16 of the Collection Plan Orders, the Receiver shall issue to Subject Members a notice setting out the payment amount that the Receiver is prepared to accept in settlement of their account (the “Settlement Offer”). The form of Settlement Offer (the “Form of Settlement Offer”) is attached hereto as **Appendix ‘K’**. The Receiver proposes that Small Account Subject Members shall not be issued Settlement Offers given the quantum and composition of their obligations.
- 2.2.3 The annual interest rates charged by the Hills Association and the Ridge Association were up to 20% and 30%, respectively, on the unpaid Charge balances. The Receiver proposes that each Settlement Offer in respect of the account of a Subject Member shall offer to compromise all late fees, administrative fees, accrued financing and other charges (the “Discounts”) from the outstanding account balance. This methodology is consistent with the settlement policy of each of the Associations prior to the appointment of the Receiver.
- 2.2.4 For clarity, the Settlement Offer will require Subject Members (excluding Small Account Subject Members) to pay the following within 30 days if they wish to settle the Receiver’s Claim in respect to an account (the “Settlement Proposal”):
- any unpaid maintenance fees, reserve fees, property taxes and applicable sales taxes;

- b) the \$1,000 Delinquency Fee; and
- c) the \$500 Collection Fee.

2.2.5 The table below summarizes the total Subject Members' account balances, the Discounts and the net Settlement Offer for each of the Associations.

Summary of Discounts and Settlement Offer				
		Carriage Hills	Carriage Ridge	Total
Receiver's Claim	[A]	\$ 16,897,562	\$ 8,507,432	\$ 25,404,994
Discounts:				
Late fees		(3,285,639)	(2,003,719)	(5,289,358)
Financing and other fees		(2,840,933)	(2,076,028)	(4,916,961)
Total Discounts	[B]	(6,126,572)	(4,079,747)	(10,206,319)
Settlement Offer	[A+B]	\$ 10,770,991	\$ 4,427,684	\$ 15,198,675

2.2.6 The Receiver will be offering to settle all of the outstanding Carriage Hills and Carriage Ridge Subject Member accounts for approximately \$10.8 million and \$4.4 million, respectively.

2.2.7 For illustrative purposes, depicted below is a hypothetical example of how a Settlement Offer would be calculated. Although a hypothetical example, the figures presented in the table below are similar to the average Delinquent Account balance.

Illustrative Example of Settlement Offer for a Subject Member		
Basic charges:		
Maintenance fee		\$ 3,383
Reserve fee		767
Property tax		242
Sales tax		517
Subtotal	[A]	4,909
Penalties:		
Late fee		1,954
Financing & other fees		1,701
Subtotal	[B]	3,655
Other fees:		
Delinquency fee		1,000
Collection Fee		500
Subtotal	[C]	1,500
Receiver's Claim	[A+B+C] = [D]	\$ 10,064
Discounts:		
Late fee		1,954
Financing & other fees		1,701
Total Discounts	[E]	3,655
Settlement Offer	[D-E]	\$ 6,409

- 2.2.8** The Receiver will not accept payment plans from Subject Members. Subject Members must remit payment in full to the Receiver by certified cheque or bank draft, by the Acceptance of Settlement Deadline (as defined in the Collection Plan Orders).
- 2.2.9** If a Subject Member accepts and pays the Settlement Offer by the Acceptance of Settlement Deadline, then the Receiver will distribute the applicable net proceeds from the liquidation of the Resort Assets to the Subject Member at the same time distributions are made to all Members without Delinquent Accounts.
- 2.2.10** If a Subject Member does not accept the Settlement Offer, the Receiver will seek judgment against the Subject Member for the entire balance outstanding, inclusive of fees and interest charged. In addition, the Receiver reserves its rights to offset the total outstanding Delinquent Account against any net proceeds payable to the Subject Member from the liquidation of the Resort Assets.

2.3 Claims Package

- 2.3.1** Pursuant to the Collection Plan Orders, the Receiver is required to send to each Subject Member within seven (7) days following the Comeback Date (as defined therein), the following documentation (collectively the “Claims Package”):

- a) the applicable Receiver's Claim;
- b) the Notice to Subject Members;
- c) the Instruction Letter;
- d) a blank form of Notice of Dispute; and
- e) the applicable Settlement Offer.

2.3.2 Due to the significant volume and customization needed to prepare the Claims Package for each Subject Member, the Receiver requests that the timeline contained in the Collection Plan Orders be amended to allow the Receiver an additional seven (7) calendar days to create the individual Settlement Offers and assemble the Claim Packages for each of the Subject Members. Specifically, the Receiver requests that paragraph 10 of the Collection Plan Orders be amended to provide the Receiver with fourteen (14) calendar days from March 8, 2021.

2.3.3 As previously discussed, the Receiver's Settlement Proposal will not include Settlement Offers in the Claims Packages it sends to Small Account Subject Members.

3.0 OTHER MATTERS

- 3.1** As detailed in the Administrator’s Third Report, the Associations previously engaged Powell Jones LLP (“**Powell Jones**”) as their external accountant. The Receiver’s intention was to engage Powell Jones to audit the Associations’ calendar 2020 financial affairs. Due to the resignation of each of the Associations’ boards of directors on January 5, 2021, Powell Jones is unable to obtain the necessary representations from the Associations’ directors to be able to provide an unqualified audit opinion. The Receiver’s main purpose for obtaining the annual audit is to provide the financial statements necessary to complete the 2020 income tax returns.
- 3.2** Accordingly, the Receiver proposes to have Powell Jones complete an independent review engagement (which does not require the directors’ representations) of the 2020 financial statements in order to complete all necessary tax filings.

4.0 RECOMMENDATIONS

- 4.1 The Receiver requests that the Court grant an Order:
- a) approving this Second Report and the activities of the Receiver described herein;
 - b) approving the Settlement Proposal in respect of the accounts of Subject Members as defined herein;
 - c) approving the Form of Settlement Offer referred to in paragraph 2.2.2 of this Second Report;
 - d) approving the increase from seven (7) days to fourteen (14) calendar days for the Receiver to issue the Claims Packages to Subject Members subject to the Collection Plan Orders; and
 - e) approving and authorizing the Receiver to retain Powell Jones to complete review engagements of the Associations calendar 2020 financial affairs.

All of which is respectfully submitted this 1st day of March, 2021.

**BDO CANADA LIMITED RECEIVER OF
CARRIAGE HILLS VACATION OWNERS ASSOCIATION &
CARRIAGE RIDGE OWNERS ASSOCIATION
and without personal or corporate liability**



Per: Matthew Marchand, CPA, CMA, CIRP, LIT
Senior Vice-President

43669333.2

TAB A

Court File No. CV-20-00640265-00CL

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

THE HONOURABLE	)	FRIDAY, THE 15 TH
)	
MADAM JUSTICE CONWAY	)	DAY OF MAY, 2020

**IN THE MATTER OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990, c. C.43, AS AMENDED**

**AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF CARRIAGE HILLS VACATION
OWNERS ASSOCIATION (the “Applicant”)**

**ORDER
(appointing Administrator)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”) appointing BDO Canada Limited (“**BDO**”) as administrator (the “**Administrator**”) without security, in respect of:

- (a) the Applicant and all the Applicant’s present and future assets, undertakings and properties (collectively, the “**Property**”), and
- (b) all the lands and premises on which the Applicant operates the timeshare resort known as Carriage Hills Resort, legally described in Schedule “A” hereto, collectively owned by the members of the Applicant (the “**Members**”) as tenants in common, as recorded in the Land Registry Office for the Land Titles Division of Simcoe (No. 51) (collectively, the “**Lands**”),

was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Notice of Application, the affidavit of Darren Chapelle, sworn April 30, 2020 (the “**Chapelle Affidavit**”) and the Exhibits thereto, the pre-filing report of BDO and the appendices thereto and the consent of BDO to act as Administrator, and on hearing the submissions of counsel for the Applicant, counsel for BDO, counsel for Lori Smith, Karen Levins and Bruce Fleming, counsel for David and Phyllis Lennox, Christopher Diana, representing himself, and Catherine Hristow, representing herself, and no one appearing for any other parties on the service list set out in the Notice of Application, although duly served as appears from the affidavit of service of Mitchell Grossell, sworn April 30, 2020,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, BDO is hereby appointed as Administrator, without security, in respect of:

(a) the Applicant and the Property, including all proceeds thereof, and

(b) the Lands, including all proceeds thereof.

(the Property and the Lands, including all proceeds thereof collectively, the “**Resort Assets**”).

3. **THIS COURT ORDERS** that the Administrator is not and shall not be deemed to be a “receiver” within the meaning of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and shall not be required to comply with the provisions of the BIA applicable to receivers including, without limiting the generality of the foregoing, any requirement to provide notice of its appointment or any statements or reports to any Persons (as defined below), including the Office of the Superintendent in Bankruptcy, in accordance with sections 245 and 246 of the BIA.

4. **THIS COURT ORDERS** that the Applicant, its members, officers, directors, agents and advisors shall advise the Administrator and the Members (in accordance with the protocol established in paragraph 36 of this Order) of all material steps taken by the Applicant pursuant to

this Order, and shall co-operate fully with the Administrator in the exercise of its powers and discharge of its obligations and provide the Administrator with the assistance that is necessary to enable the Administrator to adequately carry out the Administrator's functions.

ADMINISTRATOR'S POWERS

5. **THIS COURT ORDERS** that the Administrator shall, as soon as reasonably practicable after its appointment:

- (a) make reasonable best efforts to create an updated Member contact list (the "**Updated Member Contact List**") that shall include (but is not limited to) both the last known physical mailing addresses for the Members and their email addresses, if any, and as part of its effort to create the Updated Member Contact List, shall contact any third party service providers that have been retained by the Applicant, including but not limited to Equiant, Wyndham Worldwide Corporation, and Carriage Hills Hospitality Inc., to obtain the most recent available contact information for the Members;
- (b) subject to Court approval, plan and propose a procedure to ascertain the interests of the Members going forward with respect to the Resort, whereby Members of the Applicant will be able to indicate, among other things, whether they wish to terminate their relationship with the Resort or continue their relationship with the Resort if a satisfactory restructuring solution can be developed; and
- (c) subject to Court approval for implementation, develop an exit strategy (the "**Exit Option**") for those Members that wish to relinquish their membership with the Applicant and obtain a release of all future obligations to the Applicant, subject to certain terms and conditions to be developed by the Administrator, in consultation with the Applicant and the Consultative Committee (as defined below).

6. **THIS COURT ORDERS** that the Administrator is hereby empowered and authorized, but not obligated, to act at once in respect of the Resort Assets as provided in this Order and,

without in any way limiting the generality of the foregoing, the Administrator is hereby expressly empowered and authorized to do any of the following where the Administrator considers it necessary or desirable, in consultation with the Applicant:

- (a) to review, research and consider potential options to market, redevelop or restructure any or all of the Resort Assets and/or the Applicant and the terms of any agreements governing same in a manner consistent with the Exit Option, and to advise the Applicant and the Members thereon but, not to implement same without further Order of this Court;
- (b) to advise the Applicant in its preparation of its cash flow statements;
- (c) to review and monitor the Applicant's cash receipts and disbursements;
- (d) to advise the Applicant in connection with possible options to meet any cash flow deficiencies;
- (e) to advise the Applicant in connection with the restructuring of the operations of the Applicant, including the restructuring of the ownership of the Resort Assets and the Exit Option;
- (f) to report to this Court at such times and intervals as the Administrator may deem appropriate with respect to matters relating to the Resort Assets, the Applicant and its business and operations (the "**Business**"), the Exit Option and such other matters as may be relevant to the proceedings herein;
- (g) 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 Administrator's powers and duties, including without limitation those conferred by this Order;
- (h) to assist the Applicant, to the extent required by the Applicant, with disseminating information to the Members, creditors or other interested Persons;

- (i) to contact, communicate with and discuss the Applicant's business and affairs and the Resort Assets with applicable municipal, provincial, and federal governments and their boards, agencies, commissions, and similar bodies, regarding matters within the Applicant's powers pursuant to this Order;
- (j) to report to, and meet, communicate and discuss with such affected Persons as the Administrator deems appropriate, on all matters relating to the Applicant, the Resort Assets, the Business, the Exit Option and the administration ordered herein, and to share information, documents and other material with such Persons, subject to such terms as to confidentiality as the Administrator, in consultation with the Applicant, deems advisable and provided that the Administrator shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph; and
- (k) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations and to perform such other duties as are required by this Order or by this Court from time to time;

and in each case where the Administrator takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons except the Applicant, where applicable pursuant to this Order.

7. **THIS COURT ORDERS** that the Administrator is authorized to register a copy of this Order against title to any of or all the Lands.

CONSULTATIVE COMMITTEE OF MEMBERS

8. **THIS COURT ORDERS** that there shall be a consultative committee of Members (the "**Consultative Committee**") formed as soon as reasonably practical, whose structure and mandate shall be as follows, but notwithstanding anything in the foregoing, shall be initially limited to consultation in respect of the Exit Option and which will subsequently be expanded to include consultation in respect of other aspects of the restructuring as may be later determined by the Administrator in consultation with the Consultative Committee or as directed by the Court:

- (a) the Consultative Committee shall be provided the opportunity to consult with the Administrator and to provide non-binding input to the Administrator regarding the items described in paragraphs 5(a) to (c), 6(a), (e) and (j) of this Order;
- (b) the Consultative Committee shall be comprised of at least five (5) Members who are each in good standing, which may include the following:
 - i. one Member from the Board of Directors of the Carriage Hills Vacation Owners Association;
 - ii. one Member from the Board of Directors of the Carriage Ridge Owners Association;
 - iii. Michael Deegan, or such other Member who has an interest in terminating a relationship with the Resort and the Association irrespective of any restructuring;
 - iv. Chris Diana, or such other Member who has an interest in continuing a relationship with the Resort;
 - v. a fifth member to be chosen by the other Consultative Committee members; and
 - vi. a sixth member who may be appointed by Wyndham Worldwide Corporation in the event that they choose to participate on the Consultative Committee;
- (c) the Consultative Committee is intended to be an evolving representation of the various and differing interests of the Members and the constitution of the Consultative Committee shall be reflective and balanced in respect of those interests to the extent practicable (the “**Member Interests**”);
- (d) if any member of the Consultative Committee ceases to remain in good standing, is no longer a Member or is not reflective of the intention of the Consultative Committee as noted above, that member of the Consultative Committee shall be

immediately removed from the Consultative Committee and shall be replaced by a Member who is in good standing and reflective of the Member Interests. The replacement member shall be selected by the other then current members of the Consultative Committee;

- (e) in the event that any Consultative Committee member wishes to resign from the Consultative Committee, they may do so on fourteen (14) days advance written notice to the Consultative Committee and the Administrator, and in that case, a new Consultative Committee member shall be appointed in the same manner as described in sub-paragraph 8(b) above;
- (f) the Consultative Committee is hereby authorized and directed to establish its own procedures and protocols for meetings, related notices and communications and the Consultative Committee shall provide written communication of same to the Administrator once established;
- (g) each member of the Consultative Committee shall be required to execute a non-disclosure agreement in form and substance satisfactory to the Administrator and the members of the Consultative Committee (the “NDA”); and
- (h) the Administrator and the Consultative Committee shall meet and/or confer from time to time as reasonably requested by the Consultative Committee.

9. **THIS COURT ORDERS** that the Consultative Committee and the members of the Consultative Committee shall incur no liability or obligation as a result of their appointment to the Consultative Committee or the activities of the Consultative Committee, or the carrying out the provisions of this Order, save and except for honouring the terms of their contractual obligations (including the terms of the NDA) as a result of being a member of the Consultative Committee, gross negligence or wilful misconduct.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE ADMINISTRATOR

10. **THIS COURT ORDERS** that (i) the Applicant, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and members, and all other

persons acting or having acted on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Administrator of the existence of any Property in such Person’s possession or control, and shall grant immediate and continued access to the Resort Assets to the Administrator if so requested by the Administrator.

11. **THIS COURT ORDERS** that all Persons shall forthwith advise the Administrator 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 the Resort Assets, 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 at the request of the Administrator provide to the Administrator or permit the Administrator to make, retain and take away copies thereof and grant to the Administrator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 11 or in paragraph 12 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 Administrator due to privilege, including privilege attaching to solicitor-client communications, or to statutory provisions prohibiting such disclosure.

12. **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 Administrator for the purpose of allowing the Administrator 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 Administrator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Administrator. Further, for the purposes of this paragraph, all Persons shall provide the Administrator with all such assistance in gaining immediate access to the information in the Records as the Administrator may in its discretion require including providing the Administrator with

instructions on the use of any computer or other system and providing the Administrator with any and all access codes, account names and account numbers that may be required to gain access to the information.

POSSESSION OF PROPERTY AND OPERATIONS

13. **THIS COURT ORDERS** that subject to the terms of this Order and further Orders of this Court, the Applicant:

- (a) shall remain in possession and control of the Property and continue to manage the Resort Assets under the supervision of the Administrator and the Applicant's board of directors, subject to and pursuant to the terms of all applicable agreements in connection therewith;
- (b) shall continue to carry on the Business in a manner consistent with the preservation of the Business and the Resort Assets;
- (c) is authorized and empowered to continue to use funds in its Savings Account(s) (as that term is defined in the Chappelle Affidavit) for the purposes set out therein or as may be reasonably necessary for the ongoing operations of the Resort Assets or the carrying out of the Business, and all uses of such funds by the Applicant during the period in which the Administrator is appointed are hereby approved by this Court such that no cause of action shall lie against the Applicant or any of its former, current or future directors or officers solely by reason of making such uses in contravention of any agreement, whether express or implied and whether or not such agreement predates the date of this Order; and
- (d) is authorized and empowered to continue to retain and employ consultants, agents, experts, accountants, counsel and such other persons (collectively, the "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of its Business or for the carrying out of the terms of this Order.

14. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled, but not required to pay, or cause to be paid on its behalf, all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) in the event that the Applicant employs any Persons, all outstanding and future wages, salaries, employee benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges;
- (c) all expenses and capital expenditures reasonably necessary for the preservation of the Resort Assets or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services, provided that the Applicant shall not make, or enter into any agreement in respect of, any capital expenditures exceeding \$100,000 in the aggregate after the date of this Order except with the written consent of the Administrator or pursuant to further Order of this Court; and
- (d) payment for goods or services actually supplied to the Applicant, whether prior or subsequent to the time of the granting of this Order.

15. **THIS COURT ORDERS** that the Applicant shall, in accordance with legal requirements, remit or pay, or cause to be remitted or paid on its behalf:

- (a) in the event that the Applicant employs any Persons, any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;

- (b) all goods and services, harmonized sales or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the time of the granting of this Order, or where such Sales Taxes were accrued or collected prior to the time of the granting of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

RESTRUCTURING

16. **THIS COURT ORDERS** that subject to the terms of this Order and further Orders of this Court, the Applicant shall have the right to:

- (a) meet, communicate and discuss with such affected Persons as the Applicant deems appropriate, on all matters relating to the Applicant, the Resort Assets, the Business and the administration ordered herein, provided that the Applicant or its counsel notifies the Administrator regarding any communication that the Applicant has with any affected Persons prior to issuing any communications; and
- (b) with the consent of the Administrator, dispose of redundant or non-material Property not exceeding \$1 million in any one transaction or \$4 million in the aggregate.

NO PROCEEDINGS AGAINST THE ADMINISTRATOR

17. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Administrator without leave of this Court pursuant to motion brought on at least 7 days’ notice.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

18. **THIS COURT ORDERS** that no Proceeding against or in respect of the Applicant or the Resort Assets shall be commenced or continued, and any and all Proceedings currently under way against or in respect of the Applicant or the Resort Assets are hereby stayed and suspended pending further Order of this Court, except with the written consent of the Applicant and the Administrator, or with leave of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE APPLICANT

20. **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 Applicant, without written consent of the Applicant and Administrator or leave of this Court.

CONTINUATION OF SERVICES

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **THIS COURT ORDERS** that no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until the Administrator is discharged without leave of the Court.

EMPLOYEES

23. **THIS COURT ORDERS** that all employees of the Applicant, if any, shall remain the employees of the Applicant until such time as the Applicant may terminate the employment of such employees, as applicable. The Administrator shall not be liable for any employee-related liabilities, including any successor employer liabilities.

LIMITATIONS ON THE ADMINISTRATOR'S LIABILITY

24. **THIS COURT ORDERS** that the Administrator shall not, unless permitted by further Order of this Court and consented to by the Administrator, take possession of the Resort Assets and shall take no part whatsoever in the management or supervision of the management of the Business, save and except for the Administrator's duties and obligations within this Order, and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Resort Assets, or any part thereof.

25. **THIS COURT ORDERS** that nothing in this Order shall be construed in resulting in the Administrator being or being deemed to be an officer, director, responsible person or operator of

the Applicant or the Resort Assets within the meaning of any statute, regulation, rule or law for any purpose whatsoever.

26. **THIS COURT ORDERS** that, pursuant to clauses 7(1)(a) and 7(2)(d) of the *Canada Personal Information Protection and Electronic Documents Act*, the Administrator may collect and use personal information of Members and other identifiable individuals, but only in a manner which is in all material respects identical to the prior use of such information by the Applicant or otherwise to the extent desirable or required to fulfil the Administrator's duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that nothing herein shall require the Administrator to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Resort Assets 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 *Environmental Protection Act* (Ontario), the *Ontario Water Resources Act*, or the *Occupational Health and Safety Act* (Ontario) and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Administrator from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Administrator shall not, as a result of this Order or anything done in pursuance of the Administrator's duties and powers under this Order, be deemed to be in Possession of any of the Resort Assets within the meaning of any Environmental Legislation, unless it is actually in possession.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Administrator under this Order or as an officer of this Court, the Administrator 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.

ADMINISTRATOR'S AND OTHERS' ACCOUNTS

29. **THIS COURT ORDERS** that the Administrator, counsel to the Administrator and counsel to the Applicant shall be paid:

- (a) in respect of services relating to both the Applicant and Carriage Ridge Owners Association in its administration, 69% of, and
- (b) in respect of services for the benefit of, or relating virtually entirely to, the Applicant alone, 100% of

their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings unless otherwise ordered by the Court. The Applicant is hereby authorized and directed to pay from time to time the interim accounts of the Administrator, counsel to the Administrator and counsel to the Applicant in accordance with the foregoing.

30. **THIS COURT ORDERS** that the Administrator, counsel to the Administrator and counsel to the Applicant shall be entitled to and are hereby granted a charge (the "**Administration Charge**") on the Property, as security for such fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order in respect of these proceedings, and that the Administration Charge shall form a first charge on the Property in the maximum amount of \$350,000 inclusive of all fees, disbursements (including all fees payable to Assistants) and taxes, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

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

VALIDITY AND PRIORITY OF CHARGE CREATED BY THIS ORDER

32. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable

for all purposes, including as against any right, title or interest filed, registered, recorded or perfected prior or subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

33. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property and such Administration Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

34. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Administration Charge, unless the Applicant also obtains the prior written consent of the Administrator or further Order of this Court.

35. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (each, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Administration Charge shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any alleged breach of any Agreement caused by or resulting from the creation of the Administration Charge; and

- (c) the payments made by the Applicant pursuant to this Order, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

36. **THIS COURT ORDERS** that the Applicant shall make commercially reasonable efforts to inform the Members of this Order, any reports filed in these proceedings, and any upcoming motions in these proceedings by issuing a notice substantially in the form attached hereto as Schedule “B” (the “**Member Notice**”) to the Members by:

- (a) causing the Manager (as defined in the Chappelle Affidavit) or another third party service provider to send the Member Notice via electronic mail to all of those Members on the Updated Member Contact List; and
- (b) posting the notice and any other subsequent notices with respect to these proceedings, on the Applicant’s website.

37. **THIS COURT ORDERS THAT** the Administrator shall provide notice of the Exit Option to the Members by sending such notice, once such notice is prepared and the Exit Option is approved by the Court, to all Members by regular mail at each Members’ last known mailing address.

38. **THIS COURT ORDERS** that the Applicant, the Administrator and their respective counsel are at liberty to serve or distribute this Order, any Member Notice, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Members, the Applicant’s creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

39. **THIS COURT ORDERS** that the sending and posting of the Member Notice in accordance with this Order, and the completion of the other requirements of this Order, shall constitute good and sufficient delivery of notice of this Order on all the Members who may be entitled to receive notice, and no other notice need be given or made and no other document or material need be sent to or served upon any Member in respect of this Order.

40. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) 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 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established by the Administrator in accordance with the Guide with the following URL: www.bdo.ca/en-ca/extranets/carriage.

41. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicant and the Administrator are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the intended recipient, including the Applicant’s creditors or other interested parties, at their respective addresses as last shown in the Applicants’ records and, in the case of a Member, in accordance with paragraph 36, 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

42. **THIS COURT ORDERS** that each of the Applicant and the Administrator may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

43. **THIS COURT ORDERS** that nothing in this Order shall prevent the Administrator from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy in respect of the Applicant, the Business or the Resort Assets.

44. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

45. **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 Applicant, the Administrator and their respective 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 Applicant and to the Administrator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Administrator in any foreign proceeding, or to assist the Applicant and the Administrator and their respective agents in carrying out the terms of this Order.

46. **THIS COURT ORDERS** that the Applicant and the Administrator be at liberty and are 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 Administrator 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.

47. **THIS COURT ORDERS** that the Applicant or the Administrator or any other interested party may apply to this Court to vary or amend this Order on not less than fourteen (14) days' notice to the Applicant and the Administrator 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.

48. **THIS COURT ORDERS** that, unless impracticable or otherwise ordered by further Order of this Court, all motions in this administration may be heard together with motions in the administration of Carriage Ridge Owners Association (Court file no. CV-20-00640266-00CL) seeking substantially similar relief.

A handwritten signature in blue ink, appearing to read "C. W. [unclear]", is written over a horizontal line.

SCHEDULE "A"
LEGAL DESCRIPTION OF CARRIAGE HILLS PROPERTY

Parcel 1-16 Section 51-Oro-3

SUBJECT TO an easement over Part of Lots 2 and 3 Concession 4, Township of Oro, Part 5 Plan 51r-26764 as set out in Instrument Number 323091 in favour of Part of Lot 2 Concession 4, Township of Oro, designated as Parts 11, 12, 13 and 14 on Plan 51r-26764 being Parcel 1-17 Section 51-Oro-3, and, in favour of Part of Lot 2 Concession 4, Township of Oro, designated as Parts 1, 2, 3, 4, 15, 16 and 17 on Plan 51r-26764 being Parcel 1-18 Section 51-Oro-3.

TOGETHER WITH an easement over Part Lot 2 Concession 4, Township of Oro, being Part of Parcel 1-17 Section 51-Oro-3 being Part 11 Plan 51r-26764 as set out in Instrument Number 323092.

TOGETHER WITH an easement over Part of Lot 2 Concession 4, Township of Oro, being Part of Parcel 1-18 Section 51-Oro-3 being Parts 1 and 16 Plan 51r26764 as set out in Instrument Number 323093.

SCHEDULE “B”

NOTICE TO MEMBERS OF CARRIAGE RIDGE RESORT AND CARRIAGE HILLS RESORT

PLEASE TAKE NOTICE that on May 7, 2020, Carriage Ridge Owners Association and Carriage Hills Vacation Owners Association (collectively, the “**Applicants**”), commenced independent, but parallel, administration proceedings under the *Courts of Justice Act*, R.S.O. 1990 c. C. 43, as amended (the “**Administration Proceedings**”) and BDO Canada Limited was appointed as administrator of the Applicants (in such capacity, the “**Administrator**”) by Orders of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated May 7, 2020 (the “**Administration Orders**”)

PLEASE TAKE FURTHER NOTICE that the Applicants have brought a motion seeking [BRIEFLY DESCRIBE RELIEF SOUGHT] which is to be heard by the Court on [DATE].

Copies of the Motion Record for the upcoming proceeding, the Administration Orders and the other documents related to these Administration Proceedings will be posted on the Administrator’s website at: www.bdo.ca/en-ca/extranets/carriage.

In the event that your contact information is out of date, we ask that you update your information on the Administrator’s website on the link noted above. If you have any other questions or concerns please feel free to contact the Administrator at either BDOCarriageHills@bdo.ca and BDOCarriageRidge@bdo.ca.

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE HILLS VACATION OWNERS ASSOCIATION**

Court File No.: CV-20-00640265-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ADMINISTRATION ORDER

Thornton Grout Finnigan LLP

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Lawyers for the Applicant

TAB B

Court File No. CV-20-00640266-00CL

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

THE HONOURABLE	)	FRIDAY, THE 15TH
)	
MADAM JUSTICE CONWAY	)	DAY OF MAY, 2020

**IN THE MATTER OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990, c. C.43, AS AMENDED**

**AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF CARRIAGE RIDGE OWNERS
ASSOCIATION (the “Applicant”)**

**ORDER
(appointing Administrator)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing BDO Canada Limited (“**BDO**”) as administrator (the “**Administrator**”) without security, in respect of:

- (a) the Applicant and all the Applicant’s present and future assets, undertakings and properties (collectively, the “**Property**”), and
- (b) all the lands and premises on which the Applicant operates the timeshare resort known as Carriage Ridge Resort, legally described in Schedule “A” hereto, collectively owned by the members of the Applicant (the “**Members**”) as tenants-in-common, as recorded in the Land Registry Office for the Land Titles Division of Simcoe (No. 51) (collectively, the “**Lands**”),

was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Notice of Application, the affidavit of Martin Ginsherman, sworn April 30, 2020 (the “**Ginsherman Affidavit**”) and the Exhibits thereto, the pre-filing report of BDO and the appendices thereto, and the consent of BDO to act as Administrator, and on hearing the submissions of counsel for the Applicant, counsel for BDO, counsel for Lori Smith, Karen Levins and Bruce Fleming, counsel for David and Phyllis Lennox, Christopher Diana, representing himself, and Catherine Hristow, representing herself, and no one appearing for any other parties on the service list set out in the Notice of Application, although duly served as appears from the affidavit of service of Mitchell Grossell, sworn April 30, 2020,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, BDO is hereby appointed as Administrator, without security, in respect of:

- (a) the Applicant and the Property, including all proceeds thereof, and
- (b) the Lands, including all proceeds thereof.

(the Property and the Lands, including all proceeds thereof collectively, the “**Resort Assets**”).

3. **THIS COURT ORDERS** that the Administrator is not and shall not be deemed to be a “receiver” within the meaning of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and shall not be required to comply with the provisions of the BIA applicable to receivers including, without limiting the generality of the foregoing, any requirement to provide notice of its appointment or any statements or reports to any Persons (as defined below), including the Office of the Superintendent in Bankruptcy, in accordance with sections 245 and 246 of the BIA.

4. **THIS COURT ORDERS** that the Applicant, its members, officers, directors, agents and advisors shall advise the Administrator and the Members (in accordance with the protocol

established pursuant to paragraph 36 of this Order) of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Administrator in the exercise of its powers and discharge of its obligations and provide the Administrator with the assistance that is necessary to enable the Administrator to adequately carry out the Administrator's functions.

ADMINISTRATOR'S POWERS

5. **THIS COURT ORDERS** that the Administrator shall, as soon as reasonably practicable after its appointment:

- (a) make reasonable efforts to create an updated Members contact list (the "**Updated Members Contact List**") that shall include (but is not limited to) both the last known physical mailing addresses for the Members and their email addresses, if any, and as part of its effort to create the Updated Members Contact List, shall contact any third party service providers that have been retained by the Applicant, including but not limited to Equiant, Wyndham Worldwide Corporation, and Carriage Hills Hospitality Inc., to obtain the most recent available contact information for the Members;
- (b) subject to Court approval, plan and propose a procedure to ascertain the interests of the Members going forward with respect to the Resort, whereby Members of the Applicant will be able to indicate, among other things, whether they wish to terminate their relationship with the Resort or continue their relationship with the Resort if a satisfactory restructuring solution can be developed; and
- (c) subject to Court approval for implementation, develop an exit strategy (the "**Exit Option**") for those Members that wish to relinquish their membership with the Applicant and obtain a release of all future obligations to the Applicant, subject to certain terms and conditions to be developed by the Administrator, in consultation with the Applicant and the Consultative Committee (as defined below).

6. **THIS COURT ORDERS** that the Administrator is hereby empowered and authorized, but not obligated, to act at once in respect of the Resort Assets as provided in this Order and, without in any way limiting the generality of the foregoing, the Administrator is hereby expressly empowered and authorized to do any of the following where the Administrator considers it necessary or desirable, in consultation with the Applicant:

- (a) to review, research and consider potential options to market, redevelop or restructure any or all of the Resort Assets and/or the Applicant and the terms of any agreements governing same in a manner consistent with the Exit Option, and to advise the Applicant and the Members thereon but, not to implement same without further Order of this Court;
- (b) to advise the Applicant in its preparation of its cash flow statements;
- (c) to review and monitor the Applicant's cash receipts and disbursements;
- (d) to advise the Applicant in connection with possible options to meet any cash flow deficiencies;
- (e) to advise the Applicant in connection with the restructuring of the operations of the Applicant, including the restructuring of the ownership of the Resort Assets and the Exit Option;
- (f) to report to this Court at such times and intervals as the Administrator may deem appropriate with respect to matters relating to the Resort Assets, the Applicant and its business and operations (the "**Business**"), the Exit Option, and such other matters as may be relevant to the proceedings herein;
- (g) 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 Administrator's powers and duties, including without limitation those conferred by this Order;

- (h) to assist the Applicant, to the extent required by the Applicant, with disseminating information to the Members, creditors or other interested Persons;
- (i) to contact, communicate with and discuss the Applicant's business and affairs and the Resort Assets with applicable municipal, provincial, and federal governments and their boards, agencies, commissions, and similar bodies, regarding matters within the Applicant's powers pursuant to this Order;
- (j) to report to, and meet, communicate and discuss with such affected Persons as the Administrator deems appropriate, on all matters relating to the Applicant, the Resort Assets, the Business, the Exit Option and the administration ordered herein, and to share information, documents and other material with such Persons, subject to such terms as to confidentiality as the Administrator, in consultation with the Applicant, deems advisable and provided that the Administrator shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph; and
- (k) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations and to perform such other duties as are required by this Order or by this Court from time to time;

and in each case where the Administrator takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons except the Applicant, where applicable pursuant to this Order.

7. **THIS COURT ORDERS** that the Administrator is authorized to register a copy of this Order against title to any of or all the Lands.

CONSULTATIVE COMMITTEE OF MEMBERS

8. **THIS COURT ORDERS** that there shall be a consultative committee of Members (the "**Consultative Committee**") formed as soon as reasonably practical, whose structure and mandate shall be as follows, but notwithstanding anything in the foregoing, shall be initially limited to consultation in respect of the Exit Option and which will subsequently be expanded to

include consultation in respect of other aspects of the restructuring as may be later determined by the Administrator in consultation with the Consultative Committee or as directed by the Court:

- (a) the Consultative Committee shall be provided the opportunity to consult with the Administrator and to provide non-binding input to the Administrator regarding the items described in paragraphs 5(a) to (c), 6(a), (e) and (j) of this Order;
- (b) the Consultative Committee shall be comprised of at least five (5) Members who are each in good standing, which may include the following:
 - i. one Member from the Board of Directors of the Carriage Hills Vacation Owners Association;
 - ii. one Member from the Board of Directors of the Carriage Ridge Owners Association;
 - iii. Michael Deegan, or such other Member who has an interest in terminating a relationship with the Resort and the Association irrespective of any restructuring;
 - iv. Chris Diana, or such other Member who has an interest in continuing a relationship with the Resort;
 - v. a fifth member to be chosen by the other Consultative Committee members; and
 - vi. a sixth member who may be appointed by Wyndham Worldwide Corporation in the event that they choose to participate on the Consultative Committee;
- (c) the Consultative Committee is intended to be an evolving representation of the various and differing interests of the Members and the constitution of the Consultative Committee shall be reflective and balanced in respect of those interests to the extent practicable (the “**Member Interests**”);

- (d) if any member of the Consultative Committee ceases to remain in good standing, is no longer a Member or is not reflective of the intention of the Consultative Committee as noted above, that member of the Consultative Committee shall be immediately removed from the Consultative Committee and shall be replaced by a Member who is in good standing and reflective of the Member Interests. The replacement member shall be selected by the other then current members of the Consultative Committee;
- (e) in the event that any Consultative Committee member wishes to resign from the Consultative Committee, they may do so on fourteen (14) days advance written notice to the Consultative Committee and the Administrator, and in that case, a new Consultative Committee member shall be appointed in the same manner as described in sub-paragraph 8(b) above;
- (f) the Consultative Committee is hereby authorized and directed to establish its own procedures and protocols for meetings, related notices and communications and the Consultative Committee shall provide written communication of same to the Administrator once established;
- (g) each member of the Consultative Committee shall be required to execute a non-disclosure agreement in form and substance satisfactory to the Administrator and the members of the Consultative Committee (the “NDA”); and
- (h) the Administrator and the Consultative Committee shall meet and/or confer from time to time as reasonably requested by the Consultative Committee.

9. **THIS COURT ORDERS** that the Consultative Committee and the members of the Consultative Committee shall incur no liability or obligation as a result of their appointment to the Consultative Committee or the activities of the Consultative Committee, or the carrying out the provisions of this Order, save and except for honouring the terms of their contractual obligations (including the terms of the NDA) as a result of being a member of the Consultative Committee, gross negligence or wilful misconduct.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE ADMINISTRATOR

10. **THIS COURT ORDERS** that (i) the Applicant, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and members, and all other persons acting or having acted on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Administrator of the existence of any Property in such Person’s possession or control, and shall grant immediate and continued access to the Resort Assets to the Administrator if so requested by the Administrator.

11. **THIS COURT ORDERS** that all Persons shall forthwith advise the Administrator 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 the Resort Assets, 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 at the request of the Administrator provide to the Administrator or permit the Administrator to make, retain and take away copies thereof and grant to the Administrator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 11 or in paragraph 12 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 Administrator due to privilege, including privilege attaching to solicitor-client communications, or to statutory provisions prohibiting such disclosure.

12. **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 Administrator for the purpose of allowing the Administrator 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 Administrator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Administrator.

Further, for the purposes of this paragraph, all Persons shall provide the Administrator with all such assistance in gaining immediate access to the information in the Records as the Administrator may in its discretion require including providing the Administrator with instructions on the use of any computer or other system and providing the Administrator with any and all access codes, account names and account numbers that may be required to gain access to the information.

POSSESSION OF PROPERTY AND OPERATIONS

13. **THIS COURT ORDERS** that subject to the terms of this Order and further Orders of this Court, the Applicant:

- (a) shall remain in possession and control of the Property and continue to manage the Resort Assets under the supervision of the Administrator and the Applicant's board of directors, subject to and pursuant to the terms of all applicable agreements in connection therewith;
- (b) shall continue to carry on the Business in a manner consistent with the preservation of the Business and the Resort Assets;
- (c) is authorized and empowered to continue to use funds in its Savings Account(s) (as that term is defined in the Ginsberman Affidavit) for the purposes set out therein or as may be reasonably necessary for the ongoing operations of the Resort Assets or the carrying out of the Business, and all uses of such funds by the Applicant during the period in which the Administrator is appointed are hereby approved by this Court such that no cause of action shall lie against the Applicant or any of its former, current or future directors or officers solely by reason of making such uses in contravention of any agreement, whether express or implied and whether or not such agreement predates the date of this Order; and
- (d) is authorized and empowered to continue to retain and employ consultants, agents, experts, accountants, counsel and such other persons (collectively, the "**Assistants**") currently retained or employed by it, with liberty to retain such

further Assistants as it deems reasonably necessary or desirable in the ordinary course of its Business or for the carrying out of the terms of this Order.

14. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled, but not required to pay, or cause to be paid on its behalf, all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) in the event that the Applicant employs any Persons, all outstanding and future wages, salaries, employee benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges;
- (c) all expenses and capital expenditures reasonably necessary for the preservation of the Resort Assets or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services, provided that the Applicant shall not make, or enter into any agreement in respect of, any capital expenditures exceeding \$100,000 in the aggregate after the date of this Order except with the written consent of the Administrator or pursuant to further Order of this Court; and
- (d) payment for goods or services actually supplied to the Applicant, whether prior or subsequent to the time of the granting of this Order.

15. **THIS COURT ORDERS** that the Applicant shall, in accordance with legal requirements, remit or pay, or cause to be remitted or paid on its behalf:

- (a) in the event that the Applicant employs any Persons, any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees'

wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;

- (b) all goods and services, harmonized sales or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the time of the granting of this Order, or where such Sales Taxes were accrued or collected prior to the time of the granting of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

RESTRUCTURING

16. **THIS COURT ORDERS** that subject to the terms of this Order and further Orders of this Court, the Applicant shall have the right to:

- (a) meet, communicate and discuss with such affected Persons as the Applicant deems appropriate, on all matters relating to the Applicant, the Resort Assets, the Business and the administration ordered herein, provided that the Applicant or its counsel notifies the Administrator regarding any communication that the Applicant has with any affected Persons prior to issuing any communications; and
- (b) with the consent of the Administrator, dispose of redundant or non-material Property not exceeding \$500,000 in any one transaction or \$2 million in the aggregate.

NO PROCEEDINGS AGAINST THE ADMINISTRATOR

17. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Administrator without leave of this Court pursuant to motion brought on at least 7 days’ notice.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

18. **THIS COURT ORDERS** that no Proceeding against or in respect of the Applicant or the Resort Assets shall be commenced or continued, and any and all Proceedings currently under way against or in respect of the Applicant or the Resort Assets are hereby stayed and suspended pending further Order of this Court, except with the written consent of the Applicant and the Administrator, or with leave of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE APPLICANT

20. **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 Applicant, without written consent of the Applicant and Administrator or leave of this Court.

CONTINUATION OF SERVICES

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **THIS COURT ORDERS** that no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until the Administrator is discharged without leave of the Court.

EMPLOYEES

23. **THIS COURT ORDERS** that all employees of the Applicant, if any, shall remain the employees of the Applicant until such time as the Applicant may terminate the employment of such employees, as applicable. The Administrator shall not be liable for any employee-related liabilities, including any successor employer liabilities.

LIMITATIONS ON THE ADMINISTRATOR'S LIABILITY

24. **THIS COURT ORDERS** that the Administrator shall not, unless permitted by further Order of this Court and consented to by the Administrator, take possession of the Resort Assets

and shall take no part whatsoever in the management or supervision of the management of the Business, save and except for the Administrator's duties and obligations within this Order, and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Resort Assets, or any part thereof.

25. **THIS COURT ORDERS** that nothing in this Order shall be construed as resulting in the Administrator being or being deemed to be an officer, director, responsible person or operator of the Applicant or the Resort Assets within the meaning of any statute, regulation, rule or law for any purpose whatsoever.

26. **THIS COURT ORDERS** that, pursuant to clauses 7(1)(a) and 7(2)(d) of the *Canada Personal Information Protection and Electronic Documents Act*, the Administrator may collect and use personal information of Members and other identifiable individuals, but only in a manner which is in all material respects identical to the prior use of such information by the Applicant or otherwise to the extent desirable or required to fulfil the Administrator's duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that nothing herein shall require the Administrator to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Resort Assets 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 *Environmental Protection Act* (Ontario), the *Ontario Water Resources Act*, or the *Occupational Health and Safety Act* (Ontario) and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Administrator from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Administrator shall not, as a result of this Order or anything done in pursuance of the Administrator's duties and powers under this Order, be deemed to be in Possession of any of the Resort Assets within the meaning of any Environmental Legislation, unless it is actually in possession.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Administrator under this Order or as an officer of this Court, the Administrator 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.

ADMINISTRATOR'S AND OTHERS' ACCOUNTS

29. **THIS COURT ORDERS** that the Administrator, counsel to the Administrator and counsel to the Applicant shall be paid:

- (a) in respect of services relating to both the Applicant and Carriage Hills Owners Association in its administration, 31% of, and
- (b) in respect of services for the benefit of, or relating virtually entirely to, the Applicant alone, 100% of

their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings unless otherwise ordered by the Court. The Applicant is hereby authorized and directed to pay from time to time the interim accounts of the Administrator, counsel to the Administrator and counsel to the Applicant in accordance with the foregoing.

30. **THIS COURT ORDERS** that the Administrator, counsel to the Administrator and counsel to the Applicant shall be entitled to and are hereby granted a charge (the "**Administration Charge**") on the Property, as security for such fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order in respect of these proceedings, and that the Administration Charge shall form a first charge on the Property in the maximum amount of \$150,000 inclusive of all fees, disbursements (including all fees payable to Assistants) and taxes in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

31. **THIS COURT ORDERS** that the Administrator and counsel to the Administrator shall pass their accounts from time to time, and for this purpose the accounts of the Administrator and

counsel to the Administrator are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

VALIDITY AND PRIORITY OF CHARGE CREATED BY THIS ORDER

32. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected prior or subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

33. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property and such Administration Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

34. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Administration Charge, unless the Applicant also obtains the prior written consent of the Administrator or further Order of this Court.

35. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (each, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Administration Charge shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any alleged breach of any Agreement caused by or resulting from the creation of the Administration Charge; and
- (c) the payments made by the Applicant pursuant to this Order, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

36. **THIS COURT ORDERS** that the Applicant shall make commercially reasonable efforts to inform the Members of this Order, any reports filed in these proceedings, and any upcoming motions in these proceedings by issuing a notice substantially in the form attached hereto as Schedule “B” (the “**Member Notice**”) to the Members by:

- (a) causing the Manager (as defined in the Ginsberman Affidavit) or another third party service provider to send the Member Notice via electronic mail to all of those Members on the Updated Member Contact List; and
- (b) posting the notice and any other subsequent notices with respect to these proceedings, on the Applicant’s website.

37. **THIS COURT ORDERS** that the Administrator shall provide notice of the Exit Option to the Members by sending such notice, once such notice is prepared and the Exit Option is approved by the Court, to all Members by regular mail at each Members’ last known mailing address.

38. **THIS COURT ORDERS** that the Applicant, the Administrator and their respective counsel are at liberty to serve or distribute this Order, any Member Notice, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Members, the

Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

39. **THIS COURT ORDERS** that the sending and posting of the Member Notice in accordance with this Order, and the completion of the other requirements of this Order, shall constitute good and sufficient delivery of notice of this Order on all the Members who may be entitled to receive notice, and no other notice need be given or made and no other document or material need be sent to or served upon any Member in respect of this Order.

40. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) 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 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established by the Administrator in accordance with the Guide with the following URL: www.bdo.ca/en-ca/extranets/carriage.

41. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicant and the Administrator are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the intended recipient, including the Applicant's creditors or other interested parties, at their respective addresses as last shown in the Applicants' records and, in the case of a Member, in accordance with paragraph 36, 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

42. **THIS COURT ORDERS** that each of the Applicant and the Administrator may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

43. **THIS COURT ORDERS** that nothing in this Order shall prevent the Administrator from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy in respect of the Applicant, the Business or the Resort Assets.

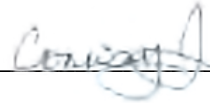
44. **THIS COURT ORDERS** that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

45. **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 Applicant, the Administrator and their respective 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 Applicant and to the Administrator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Administrator in any foreign proceeding, or to assist the Applicant and the Administrator and their respective agents in carrying out the terms of this Order.

46. **THIS COURT ORDERS** that the Applicant and the Administrator be at liberty and are 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 Administrator 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.

47. **THIS COURT ORDERS** that the Applicant or the Administrator or any other interested party may apply to this Court to vary or amend this Order on not less than fourteen (14) days' notice to the Applicant and the Administrator 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.

48. **THIS COURT ORDERS** that, unless impracticable or otherwise ordered by further Order of this Court, all motions in this administration may be heard together with motions in the administration of Carriage Hills Vacation Owners Association (Court file no. CV-20-00640265-00CL) seeking substantially similar relief.

A handwritten signature in blue ink, appearing to read "Conroy", is written over a horizontal line.

SCHEDULE "A"
LEGAL DESCRIPTION OF CARRIAGE RIDGE PROPERTY

Parcel 1-27 Section 51-Oro-3, being Part of Lots 1 and 2 Concession 3, designated as Part 1 on Plan 51r-31409 Township of Oro-Medonte

County of Simcoe.

Land Titles Division of Simcoe (No. 51)

SCHEDULE “B”

NOTICE TO MEMBERS OF CARRIAGE RIDGE RESORT AND CARRIAGE HILLS RESORT

PLEASE TAKE NOTICE that on May 7, 2020, Carriage Ridge Owners Association and Carriage Hills Vacation Owners Association (collectively, the “**Applicants**”), commenced independent, but parallel, administration proceedings under the *Courts of Justice Act*, R.S.O. 1990 c. C. 43, as amended (the “**Administration Proceedings**”) and BDO Canada Limited was appointed as administrator of the Applicants (in such capacity, the “**Administrator**”) by Orders of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated May 7, 2020 (the “**Administration Orders**”)

PLEASE TAKE FURTHER NOTICE that the Applicants have brought a motion seeking [BRIEFLY DESCRIBE RELIEF SOUGHT] which is to be heard by the Court on [DATE].

Copies of the Motion Record for the upcoming proceeding, the Administration Orders and the other documents related to these Administration Proceedings will be posted on the Administrator’s website at: www.bdo.ca/en-ca/extranets/carriage.

In the event that your contact information is out of date, we ask that you update your information on the Administrator’s website on the link noted above. If you have any other questions or concerns please feel free to contact the Administrator at either BDOCarriageHills@bdo.ca and BDOCarriageRidge@bdo.ca.

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE RIDGE OWNERS ASSOCIATION**

Court File No.: CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ADMINISTRATION ORDER

Thornton Grout Finnigan LLP

Barristers and Solicitors
Toronto-Dominion Centre
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto, ON M5K 1K7

Leanne M. Williams (LSO# 41877E)

Tel: 416-304-0060
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Tel: 416-304-7978
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Fax: 416-304-1313

Lawyers for the Applicant

TAB C

Court File No. CV-20-00640265-00CL

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

THE HONOURABLE MADAM	)	THURSDAY, THE 15TH
)	
JUSTICE CONWAY	)	DAY OF OCTOBER, 2020

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE HILLS VACATION
OWNERS ASSOCIATION** (the “**Applicant**”)

ORDER

THIS MOTION made by the Applicant for an Order, *inter alia*: (i) approving the decision of the board of directors of Carriage Hills Vacation Owners Association (“**Carriage Hills**”) and authorizing the closure of the Carriage Hills timeshare resort (the “**Carriage Hills Resort**”), (ii) authorizing and directing BDO Canada Limited, in its capacity as the Administrator of the Applicant (the “**Administrator**”), to engage such persons as it deems necessary to assist the Administrator in developing a marketing and sales process in respect of the Carriage Hills Resort, (iii) authorizing and directing the Administrator to investigate the availability and terms of third-party financing to fund the ongoing costs of maintaining the Carriage Hills Resort, if necessary, (iv) approving the Second Report of the Administrator dated October 1, 2020 (the “**Second Report**”), and the activities of the Administrator as described therein, and (v) approving the fees and disbursements of the Administrator and its counsel as described in the Second Report, was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicant dated October 2, 2020 (the “**Motion Record**”), including the affidavit of Darren Chapelle, sworn October 2, 2020 (the “**Chapelle Affidavit**”) and the Exhibit thereto, the Second Report and the appendices thereto, and on

hearing the submissions of counsel for the Applicant, counsel for the Administrator, counsel for Lori Smith, Karen Levins and Bruce Fleming, Christopher Diana on behalf of himself, and counsel for David and Phyllis Lennox, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Derek Harland sworn October 14, 2020, filed.

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that all capitalized terms used herein that are not otherwise defined shall have the meaning ascribed to them in the Second Report.

CLOSURE OF THE RESORT

3. **THIS COURT ORDERS** that the decision by the board of directors of the Applicant to close the Carriage Hills Resort effective January 6, 2021, or such other date as mutually agreed upon by the Administrator and the board of directors of the Applicant, including the minutes of the Board of Directors meeting dated September 22, 2020, is hereby authorized and approved.
4. **THIS COURT DIRECTS** the Administrator, in consultation with the Applicant, to develop a strategy for the closure and sale of the Carriage Hills Resort.

POWERS OF THE ADMINISTRATOR

5. **THIS COURT ORDERS** that in addition to the powers and duties as set out in the Order of Madam Justice Conway dated May 15, 2020 (the “**Administration Order**”), or any other Order of this Court in these proceedings, the Administrator is hereby expressly empowered and authorized to do any of the following where the Administrator considers it necessary or desirable:

- (a) direct the Applicant to engage consultants, appraisers, agents, experts, brokers and such other persons from time to time and on whatever basis,

including on a temporary basis, to assist the Administrator in developing a marketing and sales process in respect of the Carriage Hills Resort; and

- (b) investigate the availability and terms of possible third-party funding in the event that same is required to fund the ongoing costs of maintaining the Carriage Hill Resort.

6. **THIS COURT ORDERS** that the Administrator shall continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the Administration Order and any other Order of this Court and all such indemnities, charges, protections and priorities shall apply and extend to the Administrator and the fulfillment of its duties or the carrying out of the provisions of this Order.

7. **THIS COURT ORDERS** that the Applicant shall cooperate fully with the Administrator and any directions it may provide pursuant to this Order and shall provide such assistance as the Administrator may reasonably request from time to time to enable the Administrator to carry out its duties and powers as set out in the Administration Order, this Order, or any other Order of this Court.

APPROVAL OF FEES AND ACTIVITIES OF THE ADMINISTRATOR

8. **THIS COURT ORDERS** that the Second Report filed in these proceedings and the Administrator's activities as set out therein are hereby approved.

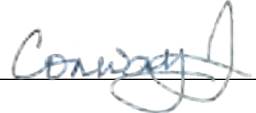
9. **THIS COURT ORDERS** that the professional fees and disbursements of the Administrator for (i) the period ending September 15, 2020 in the amount of \$273,476.00 plus HST of \$35,551.89 for a total of \$309,027.89, as set out in the Affidavit of Brad Newton sworn September 25, 2020 and attached as Appendix "U" to the Second Report, are hereby approved and the Association is authorized to pay its proportionate share of such fees in accordance with the terms of the Administration Order.

10. **THIS COURT ORDERS** that the professional fees and disbursements of Aird & Berlis, counsel to the Administrator, for (i) the period ending September 15, 2020 in the amount of \$57,023.25 plus HST of \$7,413.29 for a total of \$64,438.54 as set out in the Affidavit of Sam

Babe sworn September 30, 2020 and attached as Appendix "V" to the Second Report, are hereby approved and the Association is authorized to pay its proportionate share of such fees in accordance with the terms of the Administration Order.

GENERAL

11. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", is written over a horizontal line.

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE HILLS VACATION OWNERS ASSOCIATION**

Court File No.: CV-20-00640265-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

Thornton Grout Finnigan LLP

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Lawyers for the Applicant, Carriage Hills Vacation Owners
Association

TAB D

Court File No. CV-20-00640266-00CL

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

THE HONOURABLE MADAM	)	THURSDAY, THE 15TH
)	
JUSTICE CONWAY	)	DAY OF OCTOBER, 2020

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE RIDGE OWNERS
ASSOCIATION** (the “**Applicant**”)

ORDER

THIS MOTION made by the Applicant for an Order, *inter alia*: (i) approving the decision of the board of directors of Carriage Ridge Owners Association (“**Carriage Ridge**”) and authorizing the closure of the Carriage Ridge timeshare resort (the “**Carriage Ridge Resort**”), (ii) authorizing and directing BDO Canada Limited, in its capacity as the Administrator of the Applicant (the “**Administrator**”), to engage such persons as it deems necessary to assist the Administrator in developing a marketing and sales process in respect of the Carriage Ridge Resort, (iii) authorizing and directing the Administrator to investigate the availability and terms of third-party financing to fund the ongoing costs of maintaining the Carriage Ridge Resort, if necessary, (iv) approving the Second Report of the Administrator dated October 1, 2020 (the “**Second Report**”), and the activities of the Administrator as described therein, and (v) approving the fees and disbursements of the Administrator and its counsel as described in the Second Report, was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicant dated October 2, 2020 (the “**Motion Record**”), including the affidavit of Martin Ginsherman, sworn September 30, 2020 (the “**Ginsherman Affidavit**”) and the Exhibit thereto, the Second Report and the appendices

thereto, and on hearing the submissions of counsel for the Applicant, counsel for the Administrator, counsel for Lori Smith, Karen Levins and Bruce Fleming, Christopher Diana on behalf of himself, and counsel for David and Phyllis Lennox, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Derek Harland sworn October 14, 2020, filed.

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that all capitalized terms used herein that are not otherwise defined shall have the meaning ascribed to them in the Second Report.

CLOSURE OF THE RESORT

3. **THIS COURT ORDERS** that the decision by the board of directors of the Applicant to close the Carriage Ridge Resort effective January 6, 2021, or such other date as mutually agreed upon by the Administrator and the board of directors of the Applicant, including the minutes of the Board of Directors meeting dated September 22, 2020, is hereby authorized and approved.
4. **THIS COURT DIRECTS** the Administrator, in consultation with the Applicant, to develop a strategy for the closure and sale of the Carriage Ridge Resort.

POWERS OF THE ADMINISTRATOR

5. **THIS COURT ORDERS** that in addition to the powers and duties as set out in the Order of Madam Justice Conway dated May 15, 20220 (the “**Administration Order**”), or any other Order of this Court in these proceedings, the Administrator is hereby expressly empowered and authorized to do any of the following where the Administrator considers it necessary or desirable:

- (a) direct the Applicant to engage consultants, appraisers, agents, experts, brokers and such other persons from time to time and on whatever basis,

including on a temporary basis, to assist the Administrator in developing a marketing and sales process in respect of the Carriage Ridge Resort; and

- (b) investigate the availability and terms of possible third-party funding in the event that same is required to fund the ongoing costs of maintaining the Carriage Ridge Resort.

6. **THIS COURT ORDERS** that the Administrator shall continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the Administration Order and any other Order of this Court and all such indemnities, charges, protections and priorities shall apply and extend to the Administrator and the fulfillment of its duties or the carrying out of the provisions of this Order.

7. **THIS COURT ORDERS** that the Applicant shall cooperate fully with the Administrator and any directions it may provide pursuant to this Order and shall provide such assistance as the Administrator may reasonably request from time to time to enable the Administrator to carry out its duties and powers as set out in the Administration Order, this Order, or any other Order of this Court.

APPROVAL OF FEES AND ACTIVITIES OF THE ADMINISTRATOR

8. **THIS COURT ORDERS** that the Second Report filed in these proceedings and the Administrator's activities as set out therein are hereby approved.

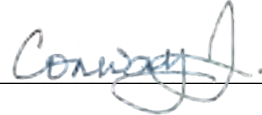
9. **THIS COURT ORDERS** that the professional fees and disbursements of the Administrator for (i) the period ending September 15, 2020 in the amount of \$273,476.00 plus HST of \$35,551.89 for a total of \$309,027.89, as set out in the Affidavit of Brad Newton sworn September 25, 2020 and attached as Appendix "U" to the Second Report, are hereby approved and the Association is authorized to pay its proportionate share of such fees in accordance with the terms of the Administration Order.

10. **THIS COURT ORDERS** that the professional fees and disbursements of Aird & Berlis, counsel to the Administrator, for (i) the period ending September 15, 2020 in the amount of \$57,023.25 plus HST of \$7,413.29 for a total of \$64,438.54 as set out in the Affidavit of Sam

Babe sworn September 30, 2020 and attached as Appendix "V" to the Second Report, are hereby approved and the Association is authorized to pay its proportionate share of such fees in accordance with the terms of the Administration Order.

GENERAL

11. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.



IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE RIDGE OWNERS ASSOCIATION**

Court File No.: CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

Thornton Grout Finnigan LLP

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Lawyers for the Applicant, Carriage Ridge Owners
Association

TAB E

Court File No. CV-20-00640265-00CL

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

THE HONOURABLE MADAM	)	FRIDAY, THE 11TH
)	
JUSTICE CONWAY	)	DAY OF DECEMBER, 2020

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE HILLS VACATION
OWNERS ASSOCIATION** (the “**Applicant**”)

AMENDED AND RESTATED APPOINTMENT ORDER

THIS MOTION made by the Applicant for an Order, *inter alia*, amending, expanding and confirming the powers of BDO Canada Limited (“**BDO**”) in respect of Carriage Hills Vacation Owners Association (“**Carriage Hills**”) and the Carriage Hills timeshare resort (the “**Carriage Hills Resort**”) pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicant dated December 1, 2020 (the “**Motion Record**”), the Third Report of the Administrator dated December 1, 2020, and the appendices thereto, and on hearing the submissions of counsel for the Applicant, counsel for the Administrator, counsel for Lori Smith, Karen Levins and Bruce Fleming, counsel for Wyndham Destinations, Christopher Diana on behalf of himself, Darren Chapelle on behalf of himself and Martin Ginsberman on behalf of himself, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Derek Harland sworn December 3, 2020, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.

EFFECTIVE TIME

2. **THIS COURT ORDERS** that this Order and all of its provisions shall be effective as of 12:01 a.m. Eastern Time on January 6, 2021.

APPOINTMENT

3. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, BDO is hereby appointed Receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Carriage Hills and the Carriage Hills Resort acquired for, or used in relation to the business carried on by Carriage Hills, including all proceeds thereof (the “**Property**”) and all the lands and premises on which Carriage Hills operates the Carriage Hills Resort, legally described in Schedule “A” hereto, collectively owned by the members of Carriage Hills (the “**Members**”) as tenants-in-common, as recorded in the Land Registry Office for the Land Titles Division of Simcoe (No. 51) (collectively, the “**Lands**”) (the Property and the Lands, including all proceeds thereof collectively, the “**Resort Assets**”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Resort Assets and any and all proceeds, receipts and disbursements arising out of or from the Resort Assets;
- (b) to receive, preserve, and protect the Resort Assets, or any part or parts thereof, including, but not limited to, the changing of locks and security

codes, the relocating of the Resort Assets to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage (including without limitation, property, general liability and vehicular insurance) as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of Carriage Hills, including the power 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 Carriage Hills;
- (d) to engage or retain 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 Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of Carriage Hills or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to Carriage Hills and to exercise all remedies of Carriage Hills in collecting such monies, including, without limitation, to enforce any security held by Carriage Hills;
- (g) to settle, extend or compromise any indebtedness owing to Carriage Hills;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Resort Assets, whether in the Receiver's name or in the name and on behalf of Carriage Hills, for any purpose pursuant to this Order;

- (i) to undertake environmental or workers' health and safety assessments of the Resort Assets;
- (j) 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 Carriage Hills, the Resort Assets or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) to market any or all of the Resort Assets, including advertising and soliciting offers in respect of the Resort Assets or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Resort Assets, or any part or parts thereof, outside of the ordinary course of business with the approval of this Court and in such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (m) to apply for any vesting order or other orders necessary to convey the Resort Assets or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Resort Assets;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Resort Assets and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Resort Assets against title to any of the Lands;

- (p) 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 Receiver, in the name of Carriage Hills;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of Carriage Hills, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by Carriage Hills;
- (r) to exercise any shareholder, partnership, joint venture or other rights which Carriage Hills may have; 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 Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including Carriage Hills, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or

affairs of Carriage Hills, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

8. **THIS COURT ORDERS AND DIRECTS** the Land Registrar for the Township of Oro to register a copy of this Order against title to the Lands upon request by the Receiver.

NO PROCEEDINGS AGAINST THE RECEIVER

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 Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST CARRIAGE HILLS OR THE RESORT ASSETS

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

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against Carriage Hills, the Receiver, or affecting the Resort Assets, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and further provided that nothing in this paragraph shall: (i) empower the Receiver or Carriage Hills to carry on any business which Carriage Hills is not lawfully entitled to carry on, (ii) exempt the Receiver or Carriage Hills from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. **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 Carriage Hills, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with Carriage Hills 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 Carriage Hills are hereby restrained until further Order of this Court from

discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of Carriage Hills' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of Carriage Hills or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Resort Assets 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 Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

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

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Resort Assets and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Resort Assets (each, a "**Sale**"). Each prospective purchaser or

bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any of the Resort Assets shall be entitled to continue to use the personal information provided to it, and related to the Resort Assets purchased, in a manner which is in all material respects identical to the prior use of such information by Carriage Hills, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

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

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Resort Assets shall be

and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

GENERAL

26. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

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

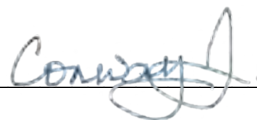
28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of Carriage Hills.

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

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

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

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



SCHEDULE "A"
DESCRIPTION OF LANDS

Parcel 1-16 Section 51-Oro-3

SUBJECT TO an easement over Part of Lots 2 and 3 Concession 4, Township of Oro, Part 5 Plan 51r-26764 as set out in Instrument Number 323091 in favour of Part of Lot 2 Concession 4, Township of Oro, designated as Parts 11, 12, 13 and 14 on Plan 51r-26764 being Parcel 1-17 Section 51-Oro-3, and, in favour of Part of Lot 2 Concession 4, Township of Oro, designated as Parts 1, 2, 3, 4, 15, 16 and 17 on Plan 51r-26764 being Parcel 1-18 Section 51-Oro-3.

TOGETHER WITH an easement over Part Lot 2 Concession 4, Township of Oro, being Part of Parcel 1-17 Section 51-Oro-3 being Part 11 Plan 51r-26764 as set out in Instrument Number 323092.

TOGETHER WITH an easement over Part of Lot 2 Concession 4, Township of Oro, being Part of Parcel 1-18 Section 51-Oro-3 being Parts 1 and 16 Plan 51r26764 as set out in Instrument Number 323093.

SCHEDULE “B”

FORM OF RECEIVER’S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that BDO Canada Limited, the receiver (the “**Receiver**”) of the assets, undertakings and properties Carriage Hills acquired for, or used in relation to the Carriage Hills Resort, including all proceeds thereof (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 10th day of May, 2020, as amended on December 11, 2020 (the “**Order**”) made in an action having Court file number CV-20-00640265-00CL, has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the ____ day of _____, 20__.

BDO Canada Limited, solely in its capacity
as Receiver of the Resort Assets, and not in its
personal capacity

Per: _____

Name:

Title:

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE HILLS VACATION OWNERS ASSOCIATION**

Court File No.: CV-20-00640265-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

AMENDED AND RESTATED
APPOINTMENT ORDER

Thornton Grout Finnigan LLP

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Lawyers for the Applicant, Carriage Hills Vacation Owners
Association

TAB F

Court File No. CV-20-00640266-00CL

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

THE HONOURABLE MADAM	)	FRIDAY, THE 11TH
)	
JUSTICE CONWAY	)	DAY OF DECEMBER, 2020

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE RIDGE OWNERS
ASSOCIATION** (the “**Applicant**”)

AMENDED AND RESTATED APPOINTMENT ORDER

THIS MOTION made by the Applicant for an Order, *inter alia*, amending, expanding and confirming the powers of BDO Canada Limited (“**BDO**”) in respect of Carriage Ridge Owners Association (“**Carriage Ridge**”) and the Carriage Ridge timeshare resort (the “**Carriage Ridge Resort**”) pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicant dated December 1, 2020 (the “**Motion Record**”), the Third Report of the Administrator dated December 1, 2020, and the appendices thereto, and on hearing the submissions of counsel for the Applicant, counsel for the Administrator, counsel for Lori Smith, Karen Levins and Bruce Fleming, counsel for Wyndham Destinations, Christopher Diana on behalf of himself, Darren Chapelle on behalf of himself and Martin Ginsberman on behalf of himself, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Derek Harland sworn December 3, 2020, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.

EFFECTIVE TIME

2. **THIS COURT ORDERS** that this Order and all of its provisions shall be effective as of 12:01 a.m. Eastern Time on January 6, 2021.

APPOINTMENT

3. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, BDO is hereby appointed Receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Carriage Ridge and the Carriage Ridge Resort acquired for, or used in relation to the business carried on by Carriage Ridge, including all proceeds thereof (the “**Property**”) and all the lands and premises on which Carriage Ridge operates the Carriage Ridge Resort, legally described in Schedule “A” hereto, collectively owned by the members of Carriage Ridge (the “**Members**”) as tenants-in-common, as recorded in the Land Registry Office for the Land Titles Division of Simcoe (No. 51) (collectively, the “**Lands**”) (the Property and the Lands, including all proceeds thereof collectively, the “**Resort Assets**”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Resort Assets and any and all proceeds, receipts and disbursements arising out of or from the Resort Assets;
- (b) to receive, preserve, and protect the Resort Assets, or any part or parts thereof, including, but not limited to, the changing of locks and security

codes, the relocating of the Resort Assets to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage (including without limitation, property, general liability and vehicular insurance) as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of Carriage Ridge, including the power 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 Carriage Ridge;
- (d) to engage or retain 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 Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of Carriage Ridge or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to Carriage Ridge and to exercise all remedies of Carriage Ridge in collecting such monies, including, without limitation, to enforce any security held by Carriage Ridge;
- (g) to settle, extend or compromise any indebtedness owing to Carriage Ridge;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Resort Assets, whether in the Receiver's name or in the name and on behalf of Carriage Ridge, for any purpose pursuant to this Order;

- (i) to undertake environmental or workers' health and safety assessments of the Resort Assets;
- (j) 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 Carriage Ridge, the Resort Assets or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) to market any or all of the Resort Assets, including advertising and soliciting offers in respect of the Resort Assets or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Resort Assets, or any part or parts thereof, outside of the ordinary course of business with the approval of this Court and in such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (m) to apply for any vesting order or other orders necessary to convey the Resort Assets or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Resort Assets;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Resort Assets and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Resort Assets against title to any of the Lands;

- (p) 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 Receiver, in the name of Carriage Ridge;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of Carriage Ridge, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by Carriage Ridge;
- (r) to exercise any shareholder, partnership, joint venture or other rights which Carriage Ridge may have; 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 Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including Carriage Ridge, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or

affairs of Carriage Ridge, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

8. **THIS COURT ORDERS AND DIRECTS** the Land Registrar for the Township of Oro to register a copy of this Order against title to the Lands upon request by the Receiver.

NO PROCEEDINGS AGAINST THE RECEIVER

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 Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST CARRIAGE RIDGE OR THE RESORT ASSETS

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

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that all rights and remedies against Carriage Ridge, the Receiver, or affecting the Resort Assets, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and further provided that nothing in this paragraph shall: (i) empower the Receiver or Carriage Ridge to carry on any business which Carriage Ridge is not lawfully entitled to carry on, (ii) exempt the Receiver or Carriage Ridge from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. **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 Carriage Ridge, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with Carriage Ridge 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 Carriage Ridge are hereby restrained until further Order of this Court from

discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of Carriage Ridge's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of Carriage Ridge or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Resort Assets 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 Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

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

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Resort Assets and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Resort Assets (each, a "**Sale**"). Each prospective purchaser or

bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any of the Resort Assets shall be entitled to continue to use the personal information provided to it, and related to the Resort Assets purchased, in a manner which is in all material respects identical to the prior use of such information by Carriage Ridge, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

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

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Resort Assets shall be

and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

GENERAL

26. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

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

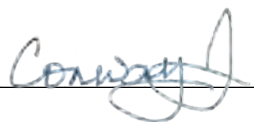
28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of Carriage Ridge.

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

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

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

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



SCHEDULE "A"**DESCRIPTION OF LANDS**

Parcel 1-27 Section 51-Oro-3, being Part of Lots 1 and 2 Concession 3, designated as Part 1 on Plan 51r-31409 Township of Oro-Medonte

County of Simcoe.

Land Titles Division of Simcoe (No. 51)

SCHEDULE "B"

FORM OF RECEIVER'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that BDO Canada Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties Carriage Ridge acquired for, or used in relation to the Carriage Ridge Resort, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 10th day of May, 2020, as amended on December 11, 2020 (the "**Order**") made in an action having Court file number CV-20-00640265-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the ____ day of _____, 20__.

BDO Canada Limited, solely in its capacity
as Receiver of the Resort Assets, and not in its
personal capacity

Per: _____

Name:

Title:

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE RIDGE OWNERS ASSOCIATION**

Court File No.: CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

AMENDED AND RESTATED
APPOINTMENT ORDER

Thornton Grout Finnigan LLP

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Mitchell W. Grossell (LSO# 69993I)

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Lawyers for the Applicant, Carriage Ridge Owners
Association

TAB G

Court File No. CV-20-00640265-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM

)

TUESDAY, THE 16TH

JUSTICE CONWAY

)

DAY OF FEBRUARY, 2021

)



IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE HILLS VACATION
OWNERS ASSOCIATION**

RECEIVER'S COLLECTION PLAN ORDER

THIS MOTION, made by BDO Canada Limited (“**BDO**”), in its capacity as receiver (in such capacity, the “**Receiver**”) over all of the assets, properties and undertakings of Carriage Hills Vacation Owners Association (the “**Applicant**”) and all the lands and premises on which the Applicant operated the Carriage Hills Resort (the “**Resort Property**”), appointed by Order of the Court with effect as of January 6, 2021 (the “**Receivership Order**”), for an Order (the “**Receiver’s Collection Plan Order**”) approving a procedure for the identification, quantification, and resolution of the Receiver’s Claims (defined below), was heard this day via Zoom judicial video conference due to the COVID-19 pandemic

ON READING the Motion Record of the Receiver dated February 5, 2021 (the “**Motion Record**”), the First Report of the Receiver dated February 5, 2021 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver, counsel for Wyndham Worldwide Corporation, and counsel for Lori Smith and Karen Levins and the submissions of Christopher Diana, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Christine Doyle sworn February 7, 2021,

- 2 -

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service and filing of this motion is hereby validated such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:
 - (a) **“Acceptance of Settlement Deadline”** means the date that is thirty (30) days from the Date of Service of the Claims Package;

 - (b) **“Appeal Period”** means the period that concludes on the fifteenth calendar day following the issuance of a Claims Decision in respect of a Receiver’s Claim by the Claims Officer;

 - (c) **“BIA”** means the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3;

 - (d) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;

 - (e) **“Claims Decision(s)”** means the Claims Officer’s written decision following his determination of each Disputed Claim, to be issued by the Claims Officer to the Receiver and the applicable Subject Member;

 - (f) **“Claims Officer”** means the individual appointed to act as a claims officer for the purpose of this Receiver’s Collection Plan Order, as set out in paragraph 21 of this Order;

 - (g) **“Claims Officer’s Report(s)”** means one or more reports prepared by the Claims Officer summarizing the Claims Decisions which are not appealed within the applicable Appeal Period;

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- (h) “**Claims Package**” means a package including the applicable Receiver’s Claim, the Notice to Subject Members, the Instruction Letter, a blank form of Notice of Dispute, and any other documentation the Receiver may deem appropriate;
- (i) “**CJA**” means the *Courts of Justice Act*, R.S.O. 1990, c C.43, as amended;
- (j) “**Comeback Date**” means the date of the Comeback Hearing or, if no Comeback Hearing is required or held, the date that is twenty (20) days following the date of this Receiver’s Collection Plan Order;
- (k) “**Comeback Hearing**” means a hearing before the Court, as described in paragraph 60 of this Order;
- (l) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (m) “**Date of Service**” means that date of effective service of a Claim Package having regard to paragraph 52 of this Order;
- (n) “**Default Judgment Report(s)**” means one or more reports prepared by the Claims Officer setting out its recommendations as to the quantum of any default judgments to be issued in respect of any Undefended Claims;
- (o) “**Defaulting Subject Member(s)**” means any Subject Member who fails to conclude a settlement by the Acceptance of Settlement Deadline and/or submit a Notice of Dispute by the Notice of Dispute Deadline;
- (p) “**Dispute Package**” means a package including the applicable Receiver’s Claim, the applicable Notice of Dispute filed by the Subject Member in respect of the Receiver’s Claim, any supporting documentation filed by the Subject Member, and ancillary documentation;
- (q) “**Disputed Claim(s)**” means a Receiver’s Claim in respect of which a completed Notice of Dispute has been submitted to the Receiver by the Notice of Dispute Deadline;

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- (r) **“Instruction Letter”** means the instruction letter to Subject Members, substantially in the form attached as **Schedule “A”** hereto, regarding the completion of a Notice of Dispute by the Subject Member, and the Receiver’s Collection Plan described herein;
- (s) **“Non-subject Member”** means a member of the Applicant:
- (i) who owes a debt to the Applicant that is the subject of either:
 - (1) a legal proceeding for the collection thereof already commenced by the filing of a claim; or
 - (2) a payment plan agreed to between the member and the Applicant’s collections agent, where the member is not in default under such plan,but only in regard to such debt, and not in regard to any other debt owed by the same member to the Applicant not falling under (1) or (2) above; or
 - (ii) who is the subject of BIA bankruptcy or proposal proceedings.
- (t) **“Notice to Subject Members”** means the notice for publication by the Receiver as described in paragraph 9 hereof, in the form attached as **Schedule “B”** hereto;
- (u) **“Notice of Dispute”** means the notice referred to in paragraph 20 hereof substantially in the form attached as **Schedule “C”** hereto which must be delivered to the Receiver by any Subject Member wishing to dispute a Receiver’s Claim, with reasons for its dispute and supporting documentation;
- (v) **“Notice of Dispute Deadline”** means the date that is thirty (30) days from the Date of Service of the Claims Package;
- (w) **“Person”** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union,

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government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;

- (x) “**Protocol**” means the E-Service Protocol of the Commercial List;
- (y) “**Subject Member(s)**” means members of the Applicant from whom the Receiver seeks payment pursuant to this Receiver’s Collection Plan, as described in greater detail in the First Report, which, for greater certainty, excludes any member to, and only to, the extent they are a Non-subject Member;
- (z) “**Receiver’s Claim**” means the Receiver’s Claim referred to in paragraphs 13 to 14 hereof to be filed by the Receiver, substantially in the form attached as **Schedule “D”** hereto;
- (aa) “**Receiver’s Website**” means the website maintained by the Receiver at the following URL: <https://www.bdo.ca/en-ca/extranets/carriage/>;
- (bb) “**Settlement Offer**” means a notice setting out the payment amount that the Receiver is prepared to accept in settlement of the applicable Receiver’s Claim which payment amount, for greater certainty, can be less than or equal to the amount of the applicable Receiver’s Claim;
- (cc) “**TSA**” means, collectively, the Time-Sharing Agreements dated June, 25, 1997, June 28, 1999 and June 30, 2000, as amended, between the Applicant, Carriage Hills Resort Corporation and Carriage Hills Hospitality Inc., to which each Subject Member is bound pursuant to an Adherence Agreement;
- (dd) “**Undefended Claim(s)**” means any Receiver’s Claim in respect of which the Receiver does not receive a Notice of Dispute by the Notice of Dispute Deadline, or payment of the amount set out in the applicable Settlement Offer by the Acceptance of Settlement Deadline.

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3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

6. **THIS COURT ORDERS** that the form and substance of each of the Receiver’s Claim, Notice to Subject Members, Instruction Letter, and Notice of Dispute, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Receiver may, from time to time, make such minor changes to such forms as the Receiver, in consultation with the Claims Officer, considers necessary or desirable.

7. **THIS COURT ORDERS** that the Receiver shall send a copy of this Receiver’s Collection Plan Order to each Subject Member by ordinary mail or email to the last known address or email address of the Subject Member, within seven (7) days following the issuance of the Receiver’s Collection Plan Order.

8. **THIS COURT ORDERS** that the Receiver shall cause the Receiver’s Collection Plan Order to be posted to the Receiver’s Website as soon as reasonably practicable after its issuance, and cause it to remain posted thereon until its discharge as Receiver.

9. **THIS COURT ORDERS** that the Receiver shall cause the Notice to Subject Members to be published in the next available Saturday or Wednesday national edition of *The Globe and Mail*.

NOTICE TO SUBJECT MEMBERS

10. **THIS COURT ORDERS** that the Receiver shall send a Claims Package to each Subject Member by ordinary mail or email to the last known address or email address of the Subject

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Member, within seven (7) days following the Comeback Date. The Claims Package shall contain (each as defined herein):

- (a) the applicable Receiver's Claim;
- (b) the Notice to Subject Members;
- (c) the Instruction Letter;
- (d) a blank form of Notice of Dispute; and
- (e) the applicable Settlement Offer.

11. **THIS COURT ORDERS** that the Receiver shall cause the Notice to Subject Members, the Instruction Letter, and a blank form of Notice of Dispute to be posted to the Receiver's Website as soon as reasonably practicable, and cause them to remain posted thereon until its discharge as Receiver.

12. **THIS COURT ORDERS** that upon request by a Subject Member for a Claims Package or documents or information relating to the Receiver's Collection Plan, the Receiver shall forthwith send the applicable Claims Package, direct such Subject Member to the documents posted on the Receiver's Website, or otherwise respond to the request for information or documents as the Receiver considers appropriate in the circumstances.

RECEIVER'S CLAIMS

13. **THIS COURT ORDERS** that the Receiver's Claim shall constitute the Receiver's formal request for payment of the outstanding indebtedness owing by each Subject Member, calculated in accordance with the TSA, as described in the First Report.

14. **THIS COURT ORDERS** that the Receiver's Claim shall constitute an initiating process against the applicable Subject Member. The service and adjudication of each Receiver's Claim in accordance with the terms of this Receiver's Collection Plan Order shall form a sufficient basis upon which this Court may grant judgment against the applicable Subject Member.

15. **THIS COURT ORDERS** that all Receiver's Claims shall be denominated in the original currency of the Receiver's Claim. Where no currency is indicated, the Receiver's Claim shall be

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presumed to be in Canadian Dollars. Any Receiver's Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average rate for that currency against the Canadian Dollar in effect on the date of this Receiver's Collection Plan Order.

RESOLUTION OF RECEIVER'S CLAIMS

16. **THIS COURT ORDERS** that the Receiver shall include in each Claims Package a Settlement Offer setting out the amount that the Receiver is prepared to accept in full and final settlement of the applicable Receiver's Claim.

17. **THIS COURT ORDERS** that each Settlement Offer shall remain open for acceptance until the Acceptance of Settlement Deadline.

18. **THIS COURT ORDERS** that where a Subject Member pays the full amount of the Settlement Offer to the Receiver by the Acceptance of Settlement Deadline, the Receiver will provide the applicable Subject Member with written confirmation that the Receiver's Claim has been satisfied.

19. **THIS COURT ORDERS** that nothing herein derogates from the Receiver's power, pursuant to subparagraph 4(g) of the Receivership Order, to otherwise negotiate with the Subject Members, for the purpose of resolving the Receiver's Claims on terms acceptable to the applicable parties.

NOTICES OF DISPUTE

20. **THIS COURT ORDERS** that any Subject Member who disputes the Receiver's Claim against them shall submit to the Receiver a Notice of Dispute, together with copies of all documents relied upon by such Subject Member, by the Notice of Dispute Deadline.

CLAIMS OFFICER'S APPOINTMENT

21. **THIS COURT ORDERS** that Tim Duncan of Fogler, Rubinoff LLP shall be and is hereby appointed as the Claims Officer, with the rights, duties, responsibilities and obligations prescribed by this Receiver's Collection Plan Order. The Claims Officer's duties shall

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commence upon his receipt of the first Dispute Package from the Receiver, pursuant to paragraph 30 of this Order.

CLAIMS OFFICER'S ROLE

22. **THIS COURT ORDERS** that the Claims Officer, in addition to its prescribed rights, duties, responsibilities and obligations under this Receiver's Collection Plan Order, shall assist the Receiver and the Subject Members in the determination of the Receiver's Claims, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Receiver's Collection Plan Order or incidental thereto.

23. **THIS COURT ORDERS** that the Claims Officer shall track and allocate its fees and disbursements on a Disputed-Claim-by-Disputed-Claim basis to facilitated the potential cost awards contemplated by paragraph 34 of this Order.

24. **THIS COURT ORDERS** that in carrying out his mandate, the Claims Officer may, among other things:

- (a) make all necessary inquiries, take accounts, and assess costs;
- (b) adopt processes which, in his discretion, he considers appropriate to facilitate the adjudication of the Receiver's Claims, having regard for the principles set out in Rule 2 of the *Rules of Civil Procedure*, and with a view to proceeding in the simplest, least expensive and most expeditious fashion;
- (c) consult the Receiver, the Subject Member, and any other persons the Claims Officer considers appropriate;
- (d) report to the Court as prescribed herein, in stages if necessary or appropriate; and
- (e) apply to this Court for advice and directions as, in his discretion, the Claims Officer deems necessary.

25. **THIS COURT ORDERS** that the Claims Officer is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Receiver's Collection Plan Order,

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including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

26. **THIS COURT ORDERS** that the Claims Officer, once appointed, is hereby authorized (i) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where they are satisfied that a Receiver's Claim has been adequately proven, waive strict compliance with the requirements of this Receiver's Collection Plan Order as to completion and execution of such forms, and (ii) to request any further documentation or other evidence from the Receiver, the Subject Members and/or third parties that may reasonably be required in order to determine the validity of a Receiver's Claim, including any defences thereto.

27. **THIS COURT ORDERS** that (i) in carrying out the terms of this Receiver's Collection Plan Order, the Claims Officer shall have all of the protections given him by this Receiver's Collection Plan Order, and as an officer of this Court, including the stay of proceedings in his favour, (ii) the Claims Officer shall incur no liability or obligation as a result of the carrying out of the provisions of this Receiver's Collection Plan Order, except to the extent that the Claims Officer has acted with gross negligence or willful misconduct, (iii) the Claims Officer shall be entitled to rely on the books and records of the Applicant and the Subject Members, and any information provided by the Receiver and the Subject Members, all without independent investigation, and (iv) the Claims Officer shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any party, except to the extent that the Claims Officer has acted with gross negligence or willful misconduct. Nothing in this Order shall derogate from the protections afforded a person pursuant to Section 142 of the CJA.

28. **THIS COURT ORDERS** that the Receiver shall pay from the Applicant's estate the reasonable professional fees and disbursements of the Claims Officer on presentation and acceptance of invoices from time to time. The Claims Officer shall be entitled to a reasonable retainer against his fees and disbursements which shall be paid upon request by the Receiver.

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

ADJUDICATION OF DISPUTED CLAIMS

30. **THIS COURT ORDERS** that, following the Notice of Dispute Deadline, the Receiver may, at its discretion, file with the Claims Officer a Dispute Package in respect of any Disputed Claim(s) that it intends to pursue. Each Dispute Package shall include:

- (a) the applicable Receiver's Claim;
- (b) the applicable Notice of Dispute, together with any supporting documentation filed by the Subject Member; and
- (c) any ancillary documentation.

31. **THIS COURT ORDERS** that the Receiver shall be entitled to abandon any Disputed Claim, without costs, at its discretion, provided that the Disputed Claim has not yet been referred to the Claims Officer.

32. **THIS COURT ORDERS** that the Receiver shall provide notice to the applicable Subject Member as to whether a Disputed Claim has been referred to the Claims Officer or abandoned, within seven (7) days of the Disputed Claim being so referred or abandoned.

33. **THIS COURT ORDERS** that, subject to further order of the Court, the Claims Officer shall determine the validity and amount of each Disputed Claim referred to the Claims Officer. In doing so, the Claims Officer shall be empowered to determine the process by which further evidence may be brought before him, if necessary, as well as any other procedural matters which may arise in respect of the determination of any Disputed Claim.

34. **THIS COURT ORDERS** that the Claims Officer shall be entitled to decide the Disputed Claims on the basis of the written record contained within the applicable Dispute Package, in his discretion.

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35. **THIS COURT ORDERS** that the Claims Officer shall be empowered to make an award of costs against the Subject Member, having regard for the factors set out in Rule 57.01 of the *Rules of Civil Procedure*, as part of his determination of the Disputed Claims. To the extent a Claims Decision affirms a Receiver's Claim, the cost award shall, at minimum, reflect the fees and disbursements incurred by the Claims Officer in determining the validity and amount of a Disputed Claim on a solicitor and client basis.

36. **THIS COURT ORDERS** that, following his determination of each Disputed Claim, the Claims Officer shall prepare a Claims Decision, in writing, and provide a copy of same to the Receiver and the applicable Subject Member.

RIGHT OF APPEAL

37. **THIS COURT ORDERS** that each of the Receiver and the Subject Member shall be entitled to appeal the applicable Claims Decision to the Court by serving upon the other, within the Appeal Period, a notice of appeal returnable on a date to be fixed by this Court.

38. **THIS COURT ORDERS** that if a notice of appeal is not served within such period, then the applicable Claims Decision shall be deemed to be final and binding and there shall be no further right of appeal, review or recourse to the Court from the Claims Decision.

39. **THIS COURT ORDERS** that, following the expiry of the Appeal Period, the Receiver will seek the direction of the Court regarding the procedure for the hearing of the appeals commenced pursuant to paragraph 37 of this Order. All appeals shall proceed as true appeals on the basis of the record before the Claims Officer, and not as hearings *de novo*. The Claims Officer shall not have any role in the appeal process.

40. **THIS COURT ORDERS** that, to the extent that appeals raise common issues, the Receiver may seek to have such appeals consolidated.

41. **THIS COURT ORDERS** that, for clarity, the Receiver shall have the power to settle or abandon any appeals brought pursuant to this Order.

DEFAULT PROCEEDINGS

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42. **THIS COURT ORDERS** that any Subject Member who fails to:

- (a) conclude a settlement by the Acceptance of Settlement Deadline; and
- (b) submit a Notice of Dispute by the Notice of Dispute Deadline,

shall be deemed to be in default (the “**Defaulting Subject Members**”).

43. **THIS COURT ORDERS** that each Defaulting Subject Member shall be deemed to admit the truth of all allegations of fact made in the applicable Undefended Claim, including the amount(s) owing by them.

44. **THIS COURT ORDERS** that, upon satisfying the Claims Officer (in his sole discretion) that the Claims Package was duly served on the Subject Member in accordance with this Order, the Receiver shall be entitled to default judgment against the Defaulting Subject Members in the amounts set out in the Undefended Claims.

45. **THIS COURT ORDERS** that, following the passage of the Acceptance of Settlement Deadline and the Notice of Dispute Deadline, the Receiver shall refer the Undefended Claims to the Claims Officer.

46. **THIS COURT ORDERS** that the Claims Officer shall review the Undefended Claims, and shall prepare a Default Judgment Report. The Receiver shall be entitled to an omnibus default judgment against the Defaulting Subject Members, in the amounts set out in the Default Judgment Report, to be issued by the Court.

ISSUANCE OF JUDGMENTS

47. **THIS COURT ORDERS** that following the expiry of the Appeal Period, the Claims Officer shall prepare and file with the Court the Claim’s Officer’s Report.

48. **THIS COURT ORDERS** that the Receiver shall be entitled to judgment against the applicable Subject Members in the amounts identified in the Claims Officer’s Report, and shall bring a motion to the Court for the purpose of obtaining such judgments.

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49. **THIS COURT ORDERS** that the Receiver need not provide said Subject Members with notice of this motion for judgment.

50. **THIS COURT ORDERS AND DECLARES** that the Receiver has the authority to exercise the Applicant's right to enforce judgment against a Subject Member by, among other methods, payment of the judgement amount in whole or in part from any distribution from the Applicant's estate to which the Subject Member is entitled.

51. **THIS COURT ORDERS** that, other than by payment from distribution pursuant to paragraph 50 of this Receiver's Collection Plan Order, enforcement of judgments obtained pursuant to this Order against Subject Members shall be stayed until the earlier of the date of closing of a sale of the Resort Property and further Order of this Court.

SERVICE AND NOTICES

52. **THIS COURT ORDERS** that the Receiver may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Receiver's Collection Plan Order, the Claims Package, and any letters, notices or other documents to the Subject Members or any other interested person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such persons at the physical or electronic address, as applicable, last shown on the books and records of the Applicant. Any such service and delivery shall be deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

53. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, through the administration of the Receiver's Collection Plan, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at

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<https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. 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 upon transmission.

54. **THIS COURT ORDERS** that any notice or communication (including Notices of Dispute) to be given under this Receiver's Collection Plan Order to the Receiver shall be in writing in substantially the form, if any, provided for in this Receiver's Collection Plan Order, and will be sufficiently given only if delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Hills Collections

Email: BD0CarriageHills@bdo.ca

Any such notice or communication shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

55. **THIS COURT ORDERS** that in the event that this Receiver's Collection Plan Order is later amended by further order of the Court, the Receiver shall post such further order on the Receiver's Website, and such posting shall constitute adequate notice to Subject Members of such amended Receiver's Collection Plan.

56. **THIS COURT ORDERS** that this Receiver's Collection Plan Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*.

NON-SUBJECT MEMBERS

57. **THIS COURT ORDERS** that, to the extent a member of the Applicant, due to the nature of certain of its debts, falls under the definition of Subject Member, it will be treated, and must act, as a Subject Member, as regards only to the Receiver's Claim corresponding to such

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debts, even if the member also falls under the definition of Non-subject Members due to the nature of other of its debts.

58. **THIS COURT ORDERS AND DECLARES** that the Receiver has the authority to exercise, in its discretion, the Applicant's rights against a Non-subject Member by, among other methods:

- (a) payment of the amount of any judgment obtained in a legal proceeding commenced against the Non-subject Member; and
- (b) payment of any amount outstanding under the payment plan agreed to between the member and the Applicant's collections agent,

from any distribution from the Applicant's estate to which the Non-subject Member is entitled.

59. **THIS COURT ORDERS AND DECLARES** that:

- (a) where a legal proceeding has been commenced against a Non-subject Member wherein no judgment has yet been obtained or other final resolution reached; or
- (b) where a Non-subject Member is or was bankrupt or in BIA proposal proceedings, and to the extent that the Receiver's Claim is stayed or compromised in such BIA proceedings,

the Receiver may, in its discretion, hold in reserve any distribution from the Applicant's estate to which the Non-subject Member is otherwise entitled pending resolution of such legal proceeding or agreement with the Non-subject Member and/or its trustee in bankruptcy or proposal trustee, as applicable, for distribution from the Non-subject Member's estate to satisfy the amount owed to the Applicant or any lesser amounts accepted in settlement thereof.

COMEBACK HEARING

60. **THIS COURT ORDERS** that any affected party who seeks to vary or set aside any provision of this Receiver's Collection Plan Order in accordance with Rule 37.14 must, within twenty (20) days of this Receiver's Collection Plan Order, set a hearing date with the Court

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office, on at least seven (7) days notice to the Receiver. On expiry of such twenty (20) day period, the Receiver may seek to consolidate any such scheduled hearings into a single comeback hearing (the "**Comeback Hearing**").

MISCELLANEOUS

61. **THIS COURT ORDERS** that the Receiver or the Claims Officer may from time to time apply to this Court to amend, vary or supplement this Receiver's Collection Plan Order or for advice and directions in the discharge of their respective powers and duties hereunder.

62. **THIS COURT ORDERS** that the filing of a jury notice by any Subject Member is hereby prohibited pursuant to Section 108(3) of the *Courts of Justice Act* (Ontario).

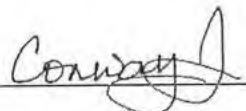
63. **THIS COURT ORDERS** that all Subject Members are required to preserve evidence which they know or ought to know is relevant to a Receiver's Claim.

64. **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, or abroad, to give effect to this Order and to assist the Receiver, the Claims Officer and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver and to the Claims Officer, as officers of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Receiver and the Claims Officer and their respective agents in carrying out the terms of this Order.

65. **THIS COURT ORDERS** that each of the Receiver and the Claims Officer 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.

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66. **THIS COURT ORDERS** that this Receiver's Collection Plan Order and all of its provisions are effective from the as of 12:01 a.m. Eastern Standard Time on the date of this Order without any need for entry and filing.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

FEB 16 2021

PER / PAR: 

SCHEDULE "A"
FORM OF INSTRUCTION LETTER

Instruction Letter

Step 1: Review the Receiver's Collection Order, the Receiver's Claim, the Notice to Subject Members) and the Settlement Offer delivered along with this Instruction Letter and any other documentation in the Claim Package. Further information with respect to the Receiver's Collection Plan, including the Receiver's Collection Order and the First Report of the Receiver filed with the Court in connection with the Receiver's Collection Plan, is available on the Receiver's website: <https://www.bdo.ca/en-ca/extranets/carriage/>.

Step 2: If you do not dispute the amount of the Receiver's Claim and are prepared to accept the Settlement Offer, you may notify the Receiver in writing of your acceptance and arrange for payment of the Settlement Amount by no later than **thirty (30) days from the date of service of the Settlement Offer as calculated under paragraph 52 of the Receiver's Collection Order**. Any notice or communication to be given to the Receiver must be in writing and delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

BDO CANADA LIMITED
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Hills Collections

Email: BDOCarriageHills@bdo.ca

Step 3: If you do dispute the amount of the Receiver's Claim, and do not accept the Settlement Offer, you must complete a **Notice of Dispute** form. State what you disagree with and why, and if there is anything you agree with. Attach copies of any documents that help your case. If you want to pay all or part of the amount owing to the Receiver, state how much you will pay and when you will pay.

Step 4: Deliver your completed Notice of Dispute form and any attachments to the Receiver by email, or if it cannot be given by email, by prepaid registered mail, courier or personal delivery to the address above, by no later than **thirty (30) days from the date of service of the Settlement Offer** as calculated under paragraph 52 of the Receiver's Collection Order.

NOTE: Any Subject Member who fails to submit either payment of the Settlement Amount or a Notice of Dispute within 30 days from the date of service of the Settlement Offer as calculated under paragraph 52 of the Receiver's Collection Order, shall be deemed to admit the amount(s) owing by them as set out in the Receiver's Claim, and the Receiver shall be entitled to seek default judgment against said Subject Members in the said amounts.

Step 5: Subject to further order of the Court, the Claims Officer appointed to administer the Receiver's Collection Plan may determine the validity and amount of the Receiver's Claim against you if you have filed a Notice of Dispute within the required time lines. Following the determination of the Receiver's Claim against you, the Claims Officer will notify both you and the Receiver of his or her decision, in writing (the "**Claims Decision(s)**").

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Step 6: You or the Receiver will be entitled to appeal the Claims Decision to the Court by serving upon the other and filing with the Court, within fifteen (15) calendar days of notification of the Claims Decision (the "**Appeal Period**"), a notice of appeal returnable on a date to be fixed by the Court. If a notice of appeal is not filed within such period, then the Claims Decision in respect to the Receiver's Claim shall be deemed to be final and binding upon you.

SCHEDULE "B"
FORM OF NOTICE TO SUBJECT MEMBERS

CARRIAGE HILLS VACATION OWNERS ASSOCIATION COLLECTION PROCESS

NOTICE TO SUBJECT MEMBERS (DELINQUENT MEMBERS)

SUBJECT MEMBERS OF CARRIAGE HILLS VACATION OWNERS ASSOCIATION

Please read this notice carefully as it may affect your legal rights.

If you are **Delinquent Member** of the Carriage Hills Vacation Owners Association (the "**Association**"), you may be a Subject Member.

PURPOSE OF THIS NOTICE

BDO Canada Limited has been appointed as the receiver (the "**Receiver**"), of the assets, undertakings and properties of the Association and of property and assets of the Carriage Hills resort in an application commenced by the Association at the Ontario Superior Court of Justice (Commercial List) bearing Court File No. CV-20-00640265-00CL.

By way of an Order of the Honourable Justice Conway dated February 16, 2021 (the "**Receiver's Collection Order**"), the Receiver has established a process (the "**Receiver's Collection Plan**") for the identification and determination of claims by the Receiver against certain members of the Association for unpaid Basic Charges, Special Charges, Personal Charges, late penalties and interest.

You are a Subject Member if you have a delinquent account in connection with your ownership in the resort and you have not already entered into a payment arrangement to satisfy such claim or it is not yet assigned for litigation. If you are a Subject Member, your legal rights will be affected by the Receiver's Collection Plan.

THE RECEIVER'S COLLECTION PLAN

The Receiver's Collection Plan can be summarized as follows:

- a) **Claim Package.** A Subject Member will receive a Claim Package including the Receiver's Claim, this Notice to Subject Members, an Instruction Letter, a blank Notice of Dispute form and a Settlement Offer, along with any other documentation the Receiver may deem appropriate, by mail or email.
- b) **Settlement of Claims.** If you do not dispute the amount of the Receiver's Claim and are prepared to accept the Settlement Offer, you may notify the Receiver in writing of your acceptance and arrange for payment of the Settlement Amount by no later than thirty (30) days from the date of service of the Claim Package (the "**Acceptance of Settlement Deadline**"). Any notice or communication to be given to the Receiver must be in writing and delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

BDO CANADA LIMITED
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Hills Collections

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Email: BDOCarrriageHills@bdo.ca

- c) **Notice of Dispute.** If you do dispute the amount of the Receiver's Claim, and do not accept the Settlement Offer, you must complete and deliver the **Notice of Dispute** form and any attachments to the Receiver by email, or if it cannot be given by email, by prepaid registered mail, courier or personal delivery to the address above, by no later than thirty (30) days from the date of service of the Claim Package (the "**Notice of Dispute Deadline**").

NOTE: If a Subject Member fails to pay the Settlement Amount or deliver to the Receiver a Notice of Dispute within 30 days of the date of service of this Claims Package as calculated under paragraph 52 of the Receiver's Claims Order, judgment may be given against them in their absence and without further notice.

- d) **Determination of Unsettled Disputes by Claims Officer.** Subject to further order of the Court, the Claims Officer appointed to administer the Receiver's Collection Plan will determine the validity and amount of each disputed Receiver's Claim. Following the determination of a Receiver's Claims, the Claims Officer will notify the Receiver and the applicable Subject Member of his or her decision, in writing (the "**Claims Decision(s)**").
- e) **Right of Appeal.** The Receiver and each Subject Member will be entitled to appeal the Claims Decisions to the Court by serving upon the other and filing with the Court, within fifteen (15) calendar days of notification of the Claims Decisions (the "**Appeal Period**"), a notice of appeal returnable on a date to be fixed by the Court. If a notice of appeal is not filed within such period, then the Claims Decisions shall be deemed to be final and binding.

ADDITIONAL INFORMATION

Further information, including the Receiver's Collection Order and the First Report of the Receiver filed with the Court in connection with the Receiver's Collection Plan, is available on the Receiver's website: <https://www.bdo.ca/en-ca/extranets/carriage/>.

INTERPRETATION

This notice is a summary of the terms of the Receiver's Collection Order. If there is a conflict between the provisions of this notice and the terms of Receiver's Collection Order, the Receiver's Collection Order prevails.

Any party affected by the Receiver's Collection Order should obtain such legal advice as they deem appropriate as soon as possible to address the matters set out in the Receiver's Collection Order.

THIS NOTICE WAS APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

SCHEDULE "C"
FORM OF NOTICE OF DISPUTE

Court File No. CV-20-00640265-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CARRIAGE HILLS VACATION OWNERS ASSOCIATION by its Court-
appointed receiver, BDO CANADA LIMITED

Claimant

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED SCHEDULE A

Respondent

NOTICE OF DISPUTE

Respondent

Last name, or name of company		
First name	Second name	Also known as
Address (street number, apt., unit)		
City/Town	Province	Phone no.
Postal code		Fax no.
Representative (if any)		LSO #
Address (street number, apt., unit)		
City/Town	Province	Phone no.
Postal code		Fax no.

THIS NOTICE OF DISPUTE IS BEING DELIVERED ON BEHALF OF: (Name(s) of respondent(s))

and I/we: (Check as many as apply)

- Dispute the claim made against me/us.
- Admit the full claim and propose the following terms of payment:

\$ _____ per _____ commencing _____, 20 _____.

(Amount) (Week/month)

Admit part of the claim in the amount of \$ _____ and propose the following terms of payment:
\$ _____ per _____ commencing _____, 20 _____.
(Amount) (Week/month)

REASONS FOR DISPUTING THE CLAIM AND DETAILS:

Explain what happened, including where and when. Explain why you do not agree with the claim made against you.

If you are relying on any documents, you **MUST** attach copies to the Notice of Dispute. If evidence is lost or unavailable, you **MUST** explain why it is not attached.

What happened?

Where?

When?

**Why I/we
disagree with all
or part of the
claim:**

ADDITIONAL PAGES ARE ATTACHED BECAUSE MORE ROOM WAS NEEDED.

Prepared on: _____, 20 _____
(Signature of defendant or representative)

This Notice of Dispute should be deliver to the Receiver by email or, if it cannot be given by email, by prepaid registered mail, courier or personal delivery, addressed to:

BDO CANADA LIMITED
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Hills Collections
Email: BDOCarriageHills@bdo.ca

**CARRIAGE HILLS VACATION OWNERS ASSOCIATION,
by its Court-appointed receiver, BDO CANADA LIMITED**

and

**THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
SCHEDULE A**

Claimant

Respondent

Court File No. CV-20-00640265-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO**

NOTICE OF DISPUTE

SCHEDULE "D"
FORM OF RECEIVER'S CLAIM

Court File No. CV-20-00640265-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CARRIAGE HILLS VACATION OWNERS ASSOCIATION by its
Court-appointed receiver, BDO CANADA LIMITED

Claimant

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
SCHEDULE A

Respondent

RECEIVER'S CLAIM

TO THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED SCHEDULE A:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Claimant. The details of the claim made against you are set out in the following pages. The amount of the claim against you is set out at Schedule A hereto.

Please refer to the Instruction Letter that was enclosed with this Receiver's Claim for instructions as to how to respond to this Receiver's Claim. A copy of the Instruction Letter may also be found at: <https://www.bdo.ca/en-ca/extranets/carriage/>

NOTE: If you fail to respond to this Receiver's Claim as instructed in the Instruction Letter, judgment may be given against you in your absence and without further notice.

Date: _____

RECEIVER'S CLAIM

1. BDO Canada Limited, in its capacity as Court-appointed receiver over all of the assets, properties and undertakings of (in such capacity, the "Receiver") of the Carriage Hills Vacation Owners Association (the "Claimant") and the Carriage Hills Resort (as defined below), claims as against the Subject Member identified in Schedule A hereto (the "Subject Member"), damages as set out in Schedule A hereto, consisting of:
 - (a) any indebtedness owing to the Claimant by the Subject Member, which was incurred during the period from <*> to January 6, 2021, pursuant to the TSA (as defined below) (the "Indebtedness");
 - (b) interest on the Indebtedness calculated at a rate of <*>% per annum in accordance with the TSA (or alternatively, at the rate prescribed by the Courts of Justice Act, R.S.O. 1990 c. C. 43, as amended (the "CJA")), from <*> to the date of judgment;
 - (c) post-judgment interest at a rate of <*>% per annum, in accordance with the TSA (or alternatively, at the rate prescribed by the CJA);
 - (d) a fee of \$500 representing an estimate of legal and collection costs incurred to the date of issuance of the Receiver's Collection Plan Order (defined below) (the "Issuance Date");
 - (e) the Receiver's costs of this proceeding from the Issuance Date on a complete or, in the alternative, substantial indemnity basis, plus all applicable disbursements and taxes; and
 - (f) such further and other relief as the Claims Officer (defined below) or the Court may deem just.

Procedural Background

2. The Claimant was established as a not-for-profit entity and incorporated by letter patent on August 6, 1996, as a corporation without share capital under the *Corporations Act* (Ontario) to operate, maintain, improve and protect the Carriage Hill time-sharing resort in Horseshoe Valley, Ontario (the "Carriage Hills Resort").
3. The Applicant is comprised of its members (the "Members"), each of whom is an owner as tenant-in-common of an undivided interest in the real property on which the Carriage Hills Resort operates (the "Resort Property").
4. The Receiver was appointed by way of the Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (Commercial List) (the "Court") with effect as of January 6, 2021.
5. By order dated February 16, 2021, the Court authorized the Receiver to collect certain amounts owing to the Applicant by its members, by way of a simplified procedure described therein (the "Receiver's Collection Plan Order"). A copy of the Receiver's Collection Plan Order is publicly available at the Receiver's website located at: <https://www.bdo.ca/en-ca/extranets/carriage/>.
6. Pursuant to the Receiver's Collection Plan Order, the Court appointed a claims officer (the "Claims Officer") to adjudicate claims brought pursuant to the Receiver's Collection Plan Order, including the within Receiver's Claim.

The TSA

7. The Claimant, Carriage Hills Resort Corporation and Carriage Hills Hospitality Inc., entered into Time Sharing Agreements dated June, 25, 1997, June 28, 1999 and June

30, 2000 (collectively, and as amended, the "TSA"), each relating to a different phase of development of the Resort Property.

8. The Subject Member is party and signatory to an Adherence Agreement, which binds it to the TSA.
9. The Receiver pleads and relies upon all of the terms of the TSA. Pursuant to the terms of the TSA, the Subject Member agreed, among other things, to pay the following charges, in proportion to the number of time-share intervals owned by the Subject Member, where applicable:
 - (a) the Subject Member's share of a "Basic Charge" comprised of Carriage Hills resort expenses ("Resort Expenses"), due yearly, in advance;
 - (b) the Subject Member's share of any "Special Charge" that may be assessed if the Basic Charges prove to be insufficient to pay Resort Expenses; and
 - (c) any "Personal Charges" resulting from the Subject Member's own acts, such as telephone charges or repair of damage caused by the Subject Member.

The Subject Member's Obligations to the Claimant

10. Between the period from <*> to January 6, 2021, the Subject Member incurred the Indebtedness in the form of Basic Charges, Special Charges and Personal Charges in its capacity as a member of the Claimant. Pursuant to the Order of this Court dated July 2, 2020, the Subject Member was assessed a \$1,000 Delinquency Fee on October 1, 2020.

11. The Subject Member is also liable under the TSA for all interest accrued and accruing on the Indebtedness. Such interest, along with the Delinquency Fee, now form part of the Indebtedness.
12. To date, despite the Claimant's and the Receiver's efforts to recover the Indebtedness, the Indebtedness remains outstanding.
13. The Receiver states that it is entitled to payment of the Indebtedness from the Subject Member, pursuant to the terms of the TSA.
14. The Receiver further states that by non-payment of the Indebtedness, the Subject Member has been unjustly enriched, to the detriment of the Claimant and the Claimant's other members, for which enrichment there is no juristic reason. The Receiver pleads and relies upon the principle of unjust enrichment and seeks a disgorgement from the Subject Member in an amount equivalent to the Indebtedness.
15. The Receiver pleads and relies upon the terms of the Receiver's Collection Plan Order, and any applicable Rules and/or statutes referred to therein.
16. If necessary, this Receiver's Claim may be served on a party outside of Ontario without leave in accordance with Rule 17.02 of the Rules of Civil Procedure because it relates to a contract that was made in Ontario.
17. This Receiver's Claim will be prosecuted before the Claims Officer in Toronto in accordance with the Receiver's Collection Plan Order.

Date: <*>, 2021

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, Ontario
M5J 2T9

Sanjeev P.R. Mitra (LSO # 37934U)
Tel: (416) 865-3085
E-mail: smitra@airdberlis.com

Sam Babe (LSO # 49498B)
Tel: (416) 865-7718
E-mail: sbabe@airdberlis.com

Lawyers for BDO Canada Limited

CARRIAGE HILLS VACATION OWNERS ASSOCIATION, by and
its Court-appointed receiver, BDO CANADA LIMITED

Claimant

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
SCHEDULE A

Respondent

Court File No. CV-20-00640265-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO

RECEIVER'S CLAIM

AIRD & BERLIS LLP
Barristers and Solicitors
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Sanjeev P.R. Mitra (LSO # 37934U)
Tel: (416) 865-3085
E-mail: smitra@airdberlis.com

Sam Babe (LSO # 49498B)
Tel: (416) 865-7718
E-mail: sbabe@airdberlis.com

Fax (416) 863-1515

Lawyers for the Claimant

Applicant

Court File No. CV-20-00640265-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

RECEIVER'S COLLECTION ORDER

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Sanjeev P.R. Mitra (LSO # 37934U)
Tel: (416) 865-3085
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Sam Babe (LSO # 49498B)
Tel: (416) 865-7718
E-mail: sbabe@airdberlis.com

Fax (416) 863-1515

*Lawyers for BDO Canada Limited in its capacity as the
court-appointed Receiver of Carriage Hills Vacation
Owners Association*

TAB H

Court File No. CV-20-00640266-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM

)

TUESDAY, THE 16TH

JUSTICE CONWAY

)

DAY OF FEBRUARY, 2021

)



IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE RIDGE OWNERS
ASSOCIATION**

RECEIVER'S COLLECTION PLAN ORDER

THIS MOTION, made by BDO Canada Limited ("**BDO**"), in its capacity as receiver (in such capacity, the "**Receiver**") over all of the assets, properties and undertakings of Carriage Ridge Owners Association (the "**Applicant**") and all the lands and premises on which the Applicant operated the Carriage Ridge Resort (the "**Resort Property**"), appointed by Order of the Court with effect as of January 6, 2021 (the "**Receivership Order**"), for an Order (the "**Receiver's Collection Plan Order**") approving a procedure for the identification, quantification, and resolution of the Receiver's Claims (defined below), was heard this day via Zoom judicial video conference due to the COVID-19 pandemic

ON READING the Motion Record of the Receiver dated February 5, 2021 (the "**Motion Record**"), the First Report of the Receiver dated February 5, 2021 (the "**First Report**"), and on hearing the submissions of counsel for the Receiver, counsel for Wyndham Worldwide Corporation, and counsel for Lori Smith and Karen Levins and the submissions of Christopher Diana, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Christine Doyle sworn February 7, 2021,

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service and filing of this motion is hereby validated such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) **“Acceptance of Settlement Deadline”** means the date that is thirty (30) days from the Date of Service of the Claims Package;
- (b) **“Appeal Period”** means the period that concludes on the fifteenth calendar day following the issuance of a Claims Decision in respect of a Receiver’s Claim by the Claims Officer;
- (c) **“BIA”** means the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3;
- (d) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (e) **“Claims Decision(s)”** means the Claims Officer’s written decision following his determination of each Disputed Claim, to be issued by the Claims Officer to the Receiver and the applicable Subject Member;
- (f) **“Claims Officer”** means the individual appointed to act as a claims officer for the purpose of this Receiver’s Collection Plan Order, as set out in paragraph 21 of this Order;
- (g) **“Claims Officer’s Report(s)”** means one or more reports prepared by the Claims Officer summarizing the Claims Decisions which are not appealed within the applicable Appeal Period;

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- (h) “**Claims Package**” means a package including the applicable Receiver’s Claim, the Notice to Subject Members, the Instruction Letter, a blank form of Notice of Dispute, and any other documentation the Receiver may deem appropriate;
- (i) “**CJA**” means the *Courts of Justice Act*, R.S.O. 1990, c C.43, as amended;
- (j) “**Comeback Date**” means the date of the Comeback Hearing or, if no Comeback Hearing is required or held, the date that is twenty (20) days following the date of this Receiver’s Collection Plan Order;
- (k) “**Comeback Hearing**” means a hearing before the Court, as described in paragraph 60 of this Order;
- (l) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (m) “**Date of Service**” means that date of effective service of a Claim Package having regard to paragraph 52 of this Order;
- (n) “**Default Judgment Report(s)**” means one or more reports prepared by the Claims Officer setting out its recommendations as to the quantum of any default judgments to be issued in respect of any Un defended Claims;
- (o) “**Defaulting Subject Member(s)**” means any Subject Member who fails to conclude a settlement by the Acceptance of Settlement Deadline and/or submit a Notice of Dispute by the Notice of Dispute Deadline;
- (p) “**Dispute Package**” means a package including the applicable Receiver’s Claim, the applicable Notice of Dispute filed by the Subject Member in respect of the Receiver’s Claim, any supporting documentation filed by the Subject Member, and ancillary documentation;
- (q) “**Disputed Claim(s)**” means a Receiver’s Claim in respect of which a completed Notice of Dispute has been submitted to the Receiver by the Notice of Dispute Deadline;

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- (r) **“Instruction Letter”** means the instruction letter to Subject Members, substantially in the form attached as **Schedule “A”** hereto, regarding the completion of a Notice of Dispute by the Subject Member, and the Receiver’s Collection Plan described herein;
- (s) **“Non-subject Member”** means a member of the Applicant:
 - (i) who owes a debt to the Applicant that is the subject of either:
 - (1) a legal proceeding for the collection thereof already commenced by the filing of a claim; or
 - (2) a payment plan agreed to between the member and the Applicant’s collections agent, where the member is not in default under such plan,

but only in regard to such debt, and not in regard to any other debt owed by the same member to the Applicant not falling under (1) or (2) above; or
 - (ii) who is the subject of BIA bankruptcy or proposal proceedings.
- (t) **“Notice to Subject Members”** means the notice for publication by the Receiver as described in paragraph 9 hereof, in the form attached as **Schedule “B”** hereto;
- (u) **“Notice of Dispute”** means the notice referred to in paragraph 20 hereof substantially in the form attached as **Schedule “C”** hereto which must be delivered to the Receiver by any Subject Member wishing to dispute a Receiver’s Claim, with reasons for its dispute and supporting documentation;
- (v) **“Notice of Dispute Deadline”** means the date that is thirty (30) days from the Date of Service of the Claims Package;
- (w) **“Person”** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union,

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government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;

- (x) “**Protocol**” means the E-Service Protocol of the Commercial List;
- (y) “**Subject Member(s)**” means members of the Applicant from whom the Receiver seeks payment pursuant to this Receiver’s Collection Plan, as described in greater detail in the First Report, which, for greater certainty, excludes any member to, and only to, the extent they are a Non-subject Member;
- (z) “**Receiver’s Claim**” means the Receiver’s Claim referred to in paragraphs 13 to 14 hereof to be filed by the Receiver, substantially in the form attached as **Schedule “D”** hereto;
- (aa) “**Receiver’s Website**” means the website maintained by the Receiver at the following URL: <https://www.bdo.ca/en-ca/extranets/carriage/>;
- (bb) “**Settlement Offer**” means a notice setting out the payment amount that the Receiver is prepared to accept in settlement of the applicable Receiver’s Claim which payment amount, for greater certainty, can be less than or equal to the amount of the applicable Receiver’s Claim;
- (cc) “**TSA**” means, collectively, the Time-Sharing Agreement dated August 8, 2003 between the Applicant, Carriage Hills Resort Corporation and Carriage Hills Hospitality Inc., to which each Subject Member is bound pursuant to an Adherence Agreement;
- (dd) “**Undefended Claim(s)**” means any Receiver’s Claim in respect of which the Receiver does not receive a Notice of Dispute by the Notice of Dispute Deadline, or payment of the amount set out in the applicable Settlement Offer by the Acceptance of Settlement Deadline.

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3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

6. **THIS COURT ORDERS** that the form and substance of each of the Receiver’s Claim, Notice to Subject Members, Instruction Letter, and Notice of Dispute, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Receiver may, from time to time, make such minor changes to such forms as the Receiver, in consultation with the Claims Officer, considers necessary or desirable.

7. **THIS COURT ORDERS** that the Receiver shall send a copy of this Receiver’s Collection Plan Order to each Subject Member by ordinary mail or email to the last known address or email address of the Subject Member, within seven (7) days following the issuance of the Receiver’s Collection Plan Order.

8. **THIS COURT ORDERS** that the Receiver shall cause the Receiver’s Collection Plan Order to be posted to the Receiver’s Website as soon as reasonably practicable after its issuance, and cause it to remain posted thereon until its discharge as Receiver.

9. **THIS COURT ORDERS** that the Receiver shall cause the Notice to Subject Members to be published in the next available Saturday or Wednesday national edition of *The Globe and Mail*.

NOTICE TO SUBJECT MEMBERS

10. **THIS COURT ORDERS** that the Receiver shall send a Claims Package to each Subject Member by ordinary mail or email to the last known address or email address of the Subject

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Member, within seven (7) days following the Comeback Date. The Claims Package shall contain (each as defined herein):

- (a) the applicable Receiver's Claim;
- (b) the Notice to Subject Members;
- (c) the Instruction Letter;
- (d) a blank form of Notice of Dispute; and
- (e) the applicable Settlement Offer.

11. **THIS COURT ORDERS** that the Receiver shall cause the Notice to Subject Members, the Instruction Letter, and a blank form of Notice of Dispute to be posted to the Receiver's Website as soon as reasonably practicable, and cause them to remain posted thereon until its discharge as Receiver.

12. **THIS COURT ORDERS** that upon request by a Subject Member for a Claims Package or documents or information relating to the Receiver's Collection Plan, the Receiver shall forthwith send the applicable Claims Package, direct such Subject Member to the documents posted on the Receiver's Website, or otherwise respond to the request for information or documents as the Receiver considers appropriate in the circumstances.

RECEIVER'S CLAIMS

13. **THIS COURT ORDERS** that the Receiver's Claim shall constitute the Receiver's formal request for payment of the outstanding indebtedness owing by each Subject Member, calculated in accordance with the TSA, as described in the First Report.

14. **THIS COURT ORDERS** that the Receiver's Claim shall constitute an initiating process against the applicable Subject Member. The service and adjudication of each Receiver's Claim in accordance with the terms of this Receiver's Collection Plan Order shall form a sufficient basis upon which this Court may grant judgment against the applicable Subject Member.

15. **THIS COURT ORDERS** that all Receiver's Claims shall be denominated in the original currency of the Receiver's Claim. Where no currency is indicated, the Receiver's Claim shall be

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presumed to be in Canadian Dollars. Any Receiver's Claims denominated in a foreign currency shall be converted to Canadian Dollars based on the Bank of Canada's daily average rate for that currency against the Canadian Dollar in effect on the date of this Receiver's Collection Plan Order.

RESOLUTION OF RECEIVER'S CLAIMS

16. **THIS COURT ORDERS** that the Receiver shall include in each Claims Package a Settlement Offer setting out the amount that the Receiver is prepared to accept in full and final settlement of the applicable Receiver's Claim.

17. **THIS COURT ORDERS** that each Settlement Offer shall remain open for acceptance until the Acceptance of Settlement Deadline.

18. **THIS COURT ORDERS** that where a Subject Member pays the full amount of the Settlement Offer to the Receiver by the Acceptance of Settlement Deadline, the Receiver will provide the applicable Subject Member with written confirmation that the Receiver's Claim has been satisfied.

19. **THIS COURT ORDERS** that nothing herein derogates from the Receiver's power, pursuant to subparagraph 4(g) of the Receivership Order, to otherwise negotiate with the Subject Members, for the purpose of resolving the Receiver's Claims on terms acceptable to the applicable parties.

NOTICES OF DISPUTE

20. **THIS COURT ORDERS** that any Subject Member who disputes the Receiver's Claim against them shall submit to the Receiver a Notice of Dispute, together with copies of all documents relied upon by such Subject Member, by the Notice of Dispute Deadline.

CLAIMS OFFICER'S APPOINTMENT

21. **THIS COURT ORDERS** that Tim Duncan of Fogler, Rubinoff LLP shall be and is hereby appointed as the Claims Officer, with the rights, duties, responsibilities and obligations prescribed by this Receiver's Collection Plan Order. The Claims Officer's duties shall

commence upon his receipt of the first Dispute Package from the Receiver, pursuant to paragraph 30 of this Order.

CLAIMS OFFICER'S ROLE

22. **THIS COURT ORDERS** that the Claims Officer, in addition to its prescribed rights, duties, responsibilities and obligations under this Receiver's Collection Plan Order, shall assist the Receiver and the Subject Members in the determination of the Receiver's Claims, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Receiver's Collection Plan Order or incidental thereto.

23. **THIS COURT ORDERS** that the Claims Officer shall track and allocate its fees and disbursements on a Disputed-Claim-by-Disputed-Claim basis to facilitated the potential cost awards contemplated by paragraph 34 of this Order.

24. **THIS COURT ORDERS** that in carrying out his mandate, the Claims Officer may, among other things:

- (a) make all necessary inquiries, take accounts, and assess costs;
- (b) adopt processes which, in his discretion, he considers appropriate to facilitate the adjudication of the Receiver's Claims, having regard for the principles set out in Rule 2 of the *Rules of Civil Procedure*, and with a view to proceeding in the simplest, least expensive and most expeditious fashion;
- (c) consult the Receiver, the Subject Member, and any other persons the Claims Officer considers appropriate;
- (d) report to the Court as prescribed herein, in stages if necessary or appropriate; and
- (e) apply to this Court for advice and directions as, in his discretion, the Claims Officer deems necessary.

25. **THIS COURT ORDERS** that the Claims Officer is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Receiver's Collection Plan Order,

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including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

26. **THIS COURT ORDERS** that the Claims Officer, once appointed, is hereby authorized (i) to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may, where they are satisfied that a Receiver's Claim has been adequately proven, waive strict compliance with the requirements of this Receiver's Collection Plan Order as to completion and execution of such forms, and (ii) to request any further documentation or other evidence from the Receiver, the Subject Members and/or third parties that may reasonably be required in order to determine the validity of a Receiver's Claim, including any defences thereto.

27. **THIS COURT ORDERS** that (i) in carrying out the terms of this Receiver's Collection Plan Order, the Claims Officer shall have all of the protections given him by this Receiver's Collection Plan Order, and as an officer of this Court, including the stay of proceedings in his favour, (ii) the Claims Officer shall incur no liability or obligation as a result of the carrying out of the provisions of this Receiver's Collection Plan Order, except to the extent that the Claims Officer has acted with gross negligence or willful misconduct, (iii) the Claims Officer shall be entitled to rely on the books and records of the Applicant and the Subject Members, and any information provided by the Receiver and the Subject Members, all without independent investigation, and (iv) the Claims Officer shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any party, except to the extent that the Claims Officer has acted with gross negligence or willful misconduct. Nothing in this Order shall derogate from the protections afforded a person pursuant to Section 142 of the CJA.

28. **THIS COURT ORDERS** that the Receiver shall pay from the Applicant's estate the reasonable professional fees and disbursements of the Claims Officer on presentation and acceptance of invoices from time to time. The Claims Officer shall be entitled to a reasonable retainer against his fees and disbursements which shall be paid upon request by the Receiver.

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

ADJUDICATION OF DISPUTED CLAIMS

30. **THIS COURT ORDERS** that, following the Notice of Dispute Deadline, the Receiver may, at its discretion, file with the Claims Officer a Dispute Package in respect of any Disputed Claim(s) that it intends to pursue. Each Dispute Package shall include:

- (a) the applicable Receiver's Claim;
- (b) the applicable Notice of Dispute, together with any supporting documentation filed by the Subject Member; and
- (c) any ancillary documentation.

31. **THIS COURT ORDERS** that the Receiver shall be entitled to abandon any Disputed Claim, without costs, at its discretion, provided that the Disputed Claim has not yet been referred to the Claims Officer.

32. **THIS COURT ORDERS** that the Receiver shall provide notice to the applicable Subject Member as to whether a Disputed Claim has been referred to the Claims Officer or abandoned, within seven (7) days of the Disputed Claim being so referred or abandoned.

33. **THIS COURT ORDERS** that, subject to further order of the Court, the Claims Officer shall determine the validity and amount of each Disputed Claim referred to the Claims Officer. In doing so, the Claims Officer shall be empowered to determine the process by which further evidence may be brought before him, if necessary, as well as any other procedural matters which may arise in respect of the determination of any Disputed Claim.

34. **THIS COURT ORDERS** that the Claims Officer shall be entitled to decide the Disputed Claims on the basis of the written record contained within the applicable Dispute Package, in his discretion.

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35. **THIS COURT ORDERS** that the Claims Officer shall be empowered to make an award of costs against the Subject Member, having regard for the factors set out in Rule 57.01 of the *Rules of Civil Procedure*, as part of his determination of the Disputed Claims. To the extent a Claims Decision affirms a Receiver's Claim, the cost award shall, at minimum, reflect the fees and disbursements incurred by the Claims Officer in determining the validity and amount of a Disputed Claim on a solicitor and client basis.

36. **THIS COURT ORDERS** that, following his determination of each Disputed Claim, the Claims Officer shall prepare a Claims Decision, in writing, and provide a copy of same to the Receiver and the applicable Subject Member.

RIGHT OF APPEAL

37. **THIS COURT ORDERS** that each of the Receiver and the Subject Member shall be entitled to appeal the applicable Claims Decision to the Court by serving upon the other, within the Appeal Period, a notice of appeal returnable on a date to be fixed by this Court.

38. **THIS COURT ORDERS** that if a notice of appeal is not served within such period, then the applicable Claims Decision shall be deemed to be final and binding and there shall be no further right of appeal, review or recourse to the Court from the Claims Decision.

39. **THIS COURT ORDERS** that, following the expiry of the Appeal Period, the Receiver will seek the direction of the Court regarding the procedure for the hearing of the appeals commenced pursuant to paragraph 37 of this Order. All appeals shall proceed as true appeals on the basis of the record before the Claims Officer, and not as hearings *de novo*. The Claims Officer shall not have any role in the appeal process.

40. **THIS COURT ORDERS** that, to the extent that appeals raise common issues, the Receiver may seek to have such appeals consolidated.

41. **THIS COURT ORDERS** that, for clarity, the Receiver shall have the power to settle or abandon any appeals brought pursuant to this Order.

DEFAULT PROCEEDINGS

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42. **THIS COURT ORDERS** that any Subject Member who fails to:

- (a) conclude a settlement by the Acceptance of Settlement Deadline; and
- (b) submit a Notice of Dispute by the Notice of Dispute Deadline,

shall be deemed to be in default (the “**Defaulting Subject Members**”).

43. **THIS COURT ORDERS** that each Defaulting Subject Member shall be deemed to admit the truth of all allegations of fact made in the applicable Undefended Claim, including the amount(s) owing by them.

44. **THIS COURT ORDERS** that, upon satisfying the Claims Officer (in his sole discretion) that the Claims Package was duly served on the Subject Member in accordance with this Order, the Receiver shall be entitled to default judgment against the Defaulting Subject Members in the amounts set out in the Undefended Claims.

45. **THIS COURT ORDERS** that, following the passage of the Acceptance of Settlement Deadline and the Notice of Dispute Deadline, the Receiver shall refer the Undefended Claims to the Claims Officer.

46. **THIS COURT ORDERS** that the Claims Officer shall review the Undefended Claims, and shall prepare a Default Judgment Report. The Receiver shall be entitled to an omnibus default judgment against the Defaulting Subject Members, in the amounts set out in the Default Judgment Report, to be issued by the Court.

ISSUANCE OF JUDGMENTS

47. **THIS COURT ORDERS** that following the expiry of the Appeal Period, the Claims Officer shall prepare and file with the Court the Claim’s Officer’s Report.

48. **THIS COURT ORDERS** that the Receiver shall be entitled to judgment against the applicable Subject Members in the amounts identified in the Claims Officer’s Report, and shall bring a motion to the Court for the purpose of obtaining such judgments.

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49. **THIS COURT ORDERS** that the Receiver need not provide said Subject Members with notice of this motion for judgment.

50. **THIS COURT ORDERS AND DECLARES** that the Receiver has the authority to exercise the Applicant's right to enforce judgment against a Subject Member by, among other methods, payment of the judgement amount in whole or in part from any distribution from the Applicant's estate to which the Subject Member is entitled.

51. **THIS COURT ORDERS** that, other than by payment from distribution pursuant to paragraph 50 of this Receiver's Collection Plan Order, enforcement of judgments obtained pursuant to this Order against Subject Members shall be stayed until the earlier of the date of closing of a sale of the Resort Property and further Order of this Court.

SERVICE AND NOTICES

52. **THIS COURT ORDERS** that the Receiver may, unless otherwise specified by this Claims Procedure Order, serve and deliver the Receiver's Collection Plan Order, the Claims Package, and any letters, notices or other documents to the Subject Members or any other interested person by forwarding true copies thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such persons at the physical or electronic address, as applicable, last shown on the books and records of the Applicant. Any such service and delivery shall be deemed to have been received: (a) if sent by ordinary mail or registered mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and (c) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

53. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, through the administration of the Receiver's Collection Plan, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at

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<https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. 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 upon transmission.

54. **THIS COURT ORDERS** that any notice or communication (including Notices of Dispute) to be given under this Receiver's Collection Plan Order to the Receiver shall be in writing in substantially the form, if any, provided for in this Receiver's Collection Plan Order, and will be sufficiently given only if delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

BDO Canada Limited
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Ridge Collections

Email: BD0CarriageRidge@bdo.ca

Any such notice or communication shall be deemed to be received upon actual receipt thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

55. **THIS COURT ORDERS** that in the event that this Receiver's Collection Plan Order is later amended by further order of the Court, the Receiver shall post such further order on the Receiver's Website, and such posting shall constitute adequate notice to Subject Members of such amended Receiver's Collection Plan.

56. **THIS COURT ORDERS** that this Receiver's Collection Plan Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*.

NON-SUBJECT MEMBERS

57. **THIS COURT ORDERS** that, to the extent a member of the Applicant, due to the nature of certain of its debts, falls under the definition of Subject Member, it will be treated, and must act, as a Subject Member, as regards only to the Receiver's Claim corresponding to such

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debts, even if the member also falls under the definition of Non-subject Members due to the nature of other of its debts.

58. **THIS COURT ORDERS AND DECLARES** that the Receiver has the authority to exercise, in its discretion, the Applicant's rights against a Non-subject Member by, among other methods:

- (a) payment of the amount of any judgment obtained in a legal proceeding commenced against the Non-subject Member; and
- (b) payment of any amount outstanding under the payment plan agreed to between the member and the Applicant's collections agent,

from any distribution from the Applicant's estate to which the Non-subject Member is entitled.

59. **THIS COURT ORDERS AND DECLARES** that:

- (a) where a legal proceeding has been commenced against a Non-subject Member wherein no judgment has yet been obtained or other final resolution reached; or
- (b) where a Non-subject Member is or was bankrupt or in BIA proposal proceedings, and to the extent that the Receiver's Claim is stayed or compromised in such BIA proceedings,

the Receiver may, in its discretion, hold in reserve any distribution from the Applicant's estate to which the Non-subject Member is otherwise entitled pending resolution of such legal proceeding or agreement with the Non-subject Member and/or its trustee in bankruptcy or proposal trustee, as applicable, for distribution from the Non-subject Member's estate to satisfy the amount owed to the Applicant or any lesser amounts accepted in settlement thereof.

COMEBACK HEARING

60. **THIS COURT ORDERS** that any affected party who seeks to vary or set aside any provision of this Receiver's Collection Plan Order in accordance with Rule 37.14 must, within twenty (20) days of this Receiver's Collection Plan Order, set a hearing date with the Court

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office, on at least seven (7) days notice to the Receiver. On expiry of such twenty (20) day period, the Receiver may seek to consolidate any such scheduled hearings into a single comeback hearing (the “**Comeback Hearing**”).

MISCELLANEOUS

61. **THIS COURT ORDERS** that the Receiver or the Claims Officer may from time to time apply to this Court to amend, vary or supplement this Receiver’s Collection Plan Order or for advice and directions in the discharge of their respective powers and duties hereunder.

62. **THIS COURT ORDERS** that the filing of a jury notice by any Subject Member is hereby prohibited pursuant to Section 108(3) of the *Courts of Justice Act* (Ontario).

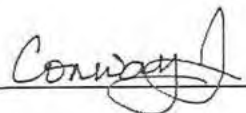
63. **THIS COURT ORDERS** that all Subject Members are required to preserve evidence which they know or ought to know is relevant to a Receiver’s Claim.

64. **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, or abroad, to give effect to this Order and to assist the Receiver, the Claims Officer and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver and to the Claims Officer, as officers of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Receiver and the Claims Officer and their respective agents in carrying out the terms of this Order.

65. **THIS COURT ORDERS** that each of the Receiver and the Claims Officer 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.

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66. **THIS COURT ORDERS** that this Receiver's Collection Plan Order and all of its provisions are effective from the as of 12:01 a.m. Eastern Standard Time on the date of this Order without any need for entry and filing.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

FEB 16 2021

PER / PAR: 

SCHEDULE "A"
FORM OF INSTRUCTION LETTER

Instruction Letter

Step 1: Review the Receiver's Collection Order, the Receiver's Claim, the Notice to Subject Members and the Settlement Offer delivered along with this Instruction Letter and any other documentation in the Claim Package. Further information with respect to the Receiver's Collection Plan, including the Receiver's Collection Order and the First Report of the Receiver filed with the Court in connection with the Receiver's Collection Plan, is available on the Receiver's website: <https://www.bdo.ca/en-ca/extranets/carriage/>.

Step 2: If you do not dispute the amount of the Receiver's Claim and are prepared to accept the Settlement Offer, you may notify the Receiver in writing of your acceptance and arrange for payment of the Settlement Amount by no later than **thirty (30) days from the date of service of the Settlement Offer** as calculated under paragraph 52 of the Receiver's Collection Order. Any notice or communication to be given to the Receiver must be in writing and delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

BDO CANADA LIMITED
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Ridge Collections

Email: BDOSettlement@bdo.ca

Step 3: If you do dispute the amount of the Receiver's Claim, and do not accept the Settlement Offer, you must complete a **Notice of Dispute** form. State what you disagree with and why, and if there is anything you agree with. Attach copies of any documents that help your case. If you want to pay all or part of the amount owing to the Receiver, state how much you will pay and when you will pay.

Step 4: Deliver your completed Notice of Dispute form and any attachments to the Receiver by email, or if it cannot be given by email, by prepaid registered mail, courier or personal delivery to the address above, by no later than **thirty (30) days from the date of service of the Settlement Offer** as calculated under paragraph 52 of the Receiver's Collection Order.

NOTE: Any Subject Member who fails to submit either payment of the Settlement Amount or a Notice of Dispute within 30 days from the date of service of the Settlement Offer as calculated under paragraph 52 of the Receiver's Collection Order, shall be deemed to admit the amount(s) owing by them as set out in the Receiver's Claim, and the Receiver shall be entitled to seek default judgment against said Subject Members in the said amounts.

Step 5: Subject to further order of the Court, the Claims Officer appointed to administer the Receiver's Collection Plan may determine the validity and amount of the Receiver's Claim against you if you have filed a Notice of Dispute within the required time lines. Following the determination of the Receiver's Claim against you, the Claims Officer will notify both you and the Receiver of his or her decision, in writing (the "**Claims Decision(s)**").

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Step 6: You or the Receiver will be entitled to appeal the Claims Decision to the Court by serving upon the other and filing with the Court, within fifteen (15) calendar days of notification of the Claims Decision (the "**Appeal Period**"), a notice of appeal returnable on a date to be fixed by the Court. If a notice of appeal is not filed within such period, then the Claims Decision shall be deemed to be final and binding upon you.

SCHEDULE "B"
FORM OF NOTICE TO SUBJECT MEMBERS

CARRIAGE RIDGE OWNERS ASSOCIATION COLLECTION PROCESS

NOTICE TO SUBJECT MEMBERS (DELINQUENT MEMBERS)

SUBJECT MEMBERS OF CARRIAGE RIDGE OWNERS ASSOCIATION

Please read this notice carefully as it may affect your legal rights.

If you are a **Delinquent Member** of the Carriage Ridge Owners Association (the "**Association**"), you may be a Subject Member.

PURPOSE OF THIS NOTICE

BDO Canada Limited has been appointed as the receiver (the "**Receiver**"), of the assets, undertakings and properties of the Association and of property and assets of the Carriage Ridge resort in an application commenced by the Association at the Ontario Superior Court of Justice (Commercial List) bearing Court File No. CV-20-00640266-00CL.

By way of an Order of the Honourable Justice Conway dated February 16, 2021 (the "**Receiver's Collection Order**"), the Receiver has established a process (the "**Receiver's Collection Plan**") for the identification and determination of claims by the Receiver against certain members of the Association for unpaid Basic Charges, Special Charges, Personal Charges, late penalties and interest.

You are a Subject Member if you have a delinquent account in connection with your ownership in the resort and you have not already entered into a payment arrangement to satisfy such claim or it is not yet assigned for litigation. If you are a Subject Member, your legal rights will be affected by the Receiver's Collection Plan.

THE RECEIVER'S COLLECTION PLAN

The Receiver's Collection Plan can be summarized as follows:

- a) **Claim Package.** A Subject Member will receive a Claim Package including the Receiver's Claim, this Notice to Subject Members, an Instruction Letter, a blank Notice of Dispute form and a Settlement Offer, along with any other documentation the Receiver may deem appropriate, by mail or email.
- b) **Settlement of Claims.** If you do not dispute the amount of the Receiver's Claim and are prepared to accept the Settlement Offer, you may notify the Receiver in writing of your acceptance and arrange for payment of the Settlement Amount by no later than thirty (30) days from the date of service of the Claim Package (the "**Acceptance of Settlement Deadline**"). Any notice or communication to be given to the Receiver must be in writing and delivered by email, or if it cannot be given by email by prepaid registered mail, courier or personal delivery, addressed to:

BDO CANADA LIMITED
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Ridge Collections

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Email: BDOCarriageRidge@bdo.ca

- c) **Notice of Dispute.** If you do dispute the amount of the Receiver's Claim, and do not accept the Settlement Offer, you must complete and deliver the **Notice of Dispute** form and any attachments to the Receiver by email, or if it cannot be given by email, by prepaid registered mail, courier or personal delivery to the address above, by no later than thirty (30) days from the date of service of the Claim Package (the "**Notice of Dispute Deadline**").

NOTE: If a Subject Member fails pay the Settlement Amount or deliver to the Receiver a Notice of Dispute within 30 days of the date of service of this Claims Package as calculated under paragraph 52 of the Receiver's Claims Order, judgment may be given against them in their absence and without further notice.

- d) **Determination of Unsettled Disputes by Claims Officer.** Subject to further order of the Court, the Claims Officer appointed to administer the Receiver's Collection Plan will determine the validity and amount of each disputed Receiver's Claim. Following the determination of the Receiver's Claims, the Claims Officer will notify the Receiver and the applicable Subject Member of his or her decision, in writing (the "**Claims Decision(s)**").
- e) **Right of Appeal.** The Receiver and each Subject Member will be entitled to appeal the Claims Decisions to the Court by serving upon the other and filing with the Court, within fifteen (15) calendar days of notification of the Claims Decisions (the "**Appeal Period**"), a notice of appeal returnable on a date to be fixed by the Court. If a notice of appeal is not filed within such period, then the Claims Decisions shall be deemed to be final and binding.

ADDITIONAL INFORMATION

Further information, including the Receiver's Collection Order and the First Report of the Receiver filed with the Court in connection with the Receiver's Collection Plan, is available on the Receiver's website: <https://www.bdo.ca/en-ca/extranets/carriage/>.

INTERPRETATION

This notice is a summary of the terms of the Receiver's Collection Order. If there is a conflict between the provisions of this notice and the terms of Receiver's Collection Order, the Receiver's Collection Order prevails.

Any party affected by the Receiver's Collection Order should obtain such legal advice as they deem appropriate as soon as possible to address the matters set out in the Receiver's Collection Order.

THIS NOTICE WAS APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

SCHEDULE "C"

FORM OF NOTICE OF DISPUTE

Court File No. CV-20-00640266-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CARRIAGE RIDGE OWNERS ASSOCIATION by its Court-appointed
receiver, BDO CANADA LIMITED

Claimant

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED SCHEDULE A

Respondent

NOTICE OF DISPUTE

Respondent

Last name, or name of company		
First name	Second name	Also known as
Address (street number, apt., unit)		
City/Town	Province	Phone no.
Postal code		Fax no.
Representative (if any)		LSO #
Address (street number, apt., unit)		
City/Town	Province	Phone no.
Postal code		Fax no.

THIS NOTICE OF DISPUTE IS BEING DELIVERED ON BEHALF OF: (Name(s) of respondent(s))

and I/we: (Check as many as apply)

- Dispute the claim made against me/us.
- Admit the full claim and propose the following terms of payment:

\$ _____ per _____ commencing _____, 20 _____ .

(Amount) (Week/month)

Admit part of the claim in the amount of \$ _____ and propose the following terms of payment:
\$ _____ per _____ commencing _____, 20 _____.
(Amount) (Week/month)

REASONS FOR DISPUTING THE CLAIM AND DETAILS:

Explain what happened, including where and when. Explain why you do not agree with the claim made against you.

If you are relying on any documents, you **MUST** attach copies to the Notice of Dispute. If evidence is lost or unavailable, you **MUST** explain why it is not attached.

What happened?

Where?

When?

Why I/we disagree with all or part of the claim:

ADDITIONAL PAGES ARE ATTACHED BECAUSE MORE ROOM WAS NEEDED.

Prepared on: _____, 20 _____
(Signature of defendant or representative)

This Notice of Dispute should be deliver to the Receiver by email or, if it cannot be given by email, by prepaid registered mail, courier or personal delivery, addressed to:

BDO CANADA LIMITED
20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Ridge Collections
Email: BDOCarrigeRidge@bdo.ca

CARRIAGE RIDGE OWNERS ASSOCIATION, by its Court-
appointed receiver, BDO CANADA LIMITED and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
SCHEDULE A

Claimant

Respondent

Court File No. CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO

NOTICE OF DISPUTE

SCHEDULE "D"
FORM OF RECEIVER'S CLAIM

Court File No. CV-20-00640266-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CARRIAGE RIDGE OWNERS ASSOCIATION by its Court-
appointed receiver, BDO CANADA LIMITED

Claimant

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
SCHEDULE A

Respondent

RECEIVER'S CLAIM

TO THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED SCHEDULE A:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Claimant. The details of the claim made against you are set out in the following pages. The amount of the claim against you is set out at Schedule A hereto.

Please refer to the Instruction Letter that was enclosed with this Receiver's Claim for instructions as to how to respond to this Receiver's Claim. A copy of the Instruction Letter may also be found at: <https://www.bdo.ca/en-ca/extranets/carriage/>

NOTE: If you fail to respond to this Receiver's Claim as instructed in the Instruction Letter, judgment may be given against you in your absence and without further notice.

Date: _____

RECEIVER'S CLAIM

1. BDO Canada Limited, in its capacity as Court-appointed receiver over all of the assets, properties and undertakings of (in such capacity, the "Receiver") of the Carriage Ridge Owners Association (the "Claimant") and the Carriage Ridge Resort (as defined below), claims as against the Subject Member identified in Schedule A hereto (the "Subject Member"), damages as set out in Schedule A hereto, consisting of:
 - (a) any indebtedness owing to the Claimant by the Subject Member, which was incurred during the period from <*> to January 6, 2021, pursuant to the TSA (as defined below) (the "Indebtedness");
 - (b) interest on the Indebtedness calculated at a rate of <*>% per annum in accordance with the TSA (or alternatively, at the rate prescribed by the Courts of Justice Act, R.S.O. 1990 c. C. 43, as amended (the "CJA")), from <*> to the date of judgment;
 - (c) post-judgment interest at a rate of <*>% per annum, in accordance with the TSA (or alternatively, at the rate prescribed by the CJA);
 - (d) a fee of \$500 representing an estimate of legal and collection costs incurred to the date of issuance of the Receiver's Collection Plan Order (defined below) (the "Issuance Date");
 - (e) the Receiver's costs of this proceeding from the Issuance Date on a complete or, in the alternative, substantial indemnity basis, plus all applicable disbursements and taxes; and
 - (f) such further and other relief as the Claims Officer (defined below) or the Court may deem just.

Procedural Background

2. The Claimant was established as a not-for-profit entity and incorporated by letter patent on August 6, 1996, as a corporation without share capital under the *Corporations Act* (Ontario) to operate, maintain, improve and protect the Carriage Hill time-sharing resort in Horseshoe Valley, Ontario (the "Carriage Ridge Resort").
3. The Applicant is comprised of its members (the "Members"), each of whom is an owner as tenant-in-common of an undivided interest in the real property on which the Carriage Ridge Resort operates (the "Resort Property").
4. The Receiver was appointed by way of the Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (Commercial List) (the "Court") with effect as of January 6, 2021.
5. By order dated February 16, 2021, the Court authorized the Receiver to collect certain amounts owing to the Applicant by its members, by way of a simplified procedure described therein (the "Receiver's Collection Plan Order"). A copy of the Receiver's Collection Plan Order is publicly available at the Receiver's website located at: <https://www.bdo.ca/en-ca/extranets/carriage/>.
6. Pursuant to the Receiver's Collection Plan Order, the Court appointed a claims officer (the "Claims Officer") to adjudicate claims brought pursuant to the Receiver's Collection Plan Order, including the within Receiver's Claim.

The TSA

7. The Claimant, Carriage Hills Resort Corporation and Carriage Hills Hospitality Inc., entered into Time Sharing Agreements dated August 8, 2003 (the "TSA"), each relating to a different phase of development of the Resort Property.
8. The Subject Member is party and signatory to an Adherence Agreement, which binds it to the TSA.
9. The Receiver pleads and relies upon all of the terms of the TSA. Pursuant to the terms of the TSA, the Subject Member agreed, among other things, to pay the following charges, in proportion to the number of time-share intervals owned by the Subject Member, where applicable:
 - (a) the Subject Member's share of a "Basic Charge" comprised of Carriage Ridge resort expenses ("Resort Expenses"), due yearly, in advance;
 - (b) the Subject Member's share of any "Special Charge" that may be assessed if the Basic Charges prove to be insufficient to pay Resort Expenses; and
 - (c) any "Personal Charges" resulting from the Subject Member's own acts, such as telephone charges or repair of damage caused by the Subject Member.

The Subject Member's Obligations to the Claimant

10. Between the period from <*> to January 6, 2021, the Subject Member incurred the Indebtedness in the form of Basic Charges, Special Charges and Personal Charges in its capacity as a member of the Claimant. Pursuant to the Order of this Court dated July

2, 2020, the Subject Member was assessed a \$1,000 Delinquency Fee on October 1, 2020.

11. The Subject Member is also liable under the TSA for all interest accrued and accruing on the Indebtedness. Such interest, along with the Delinquency Fee, now form part of the Indebtedness.
12. To date, despite the Claimant's and the Receiver's efforts to recover the Indebtedness, the Indebtedness remains outstanding.
13. The Receiver states that it is entitled to payment of the Indebtedness from the Subject Member, pursuant to the terms of the TSA.
14. The Receiver further states that by non-payment of the Indebtedness, the Subject Member has been unjustly enriched, to the detriment of the Claimant and the Claimant's other members, for which enrichment there is no juristic reason. The Receiver pleads and relies upon the principle of unjust enrichment and seeks a disgorgement from the Subject Member in an amount equivalent to the Indebtedness.
15. The Receiver pleads and relies upon the terms of the Receiver's Collection Plan Order, and any applicable Rules and/or statutes referred to therein.
16. If necessary, this Receiver's Claim may be served on a party outside of Ontario without leave in accordance with Rule 17.02 of the Rules of Civil Procedure because it relates to a contract that was made in Ontario.
17. This Receiver's Claim will be prosecuted before the Claims Officer in Toronto in accordance with the Receiver's Collection Plan Order.

Date: <*>, 2021

AIRD & BERLIS LLP
Barristers and Solicitors
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Lawyers for BDO Canada Limited

CARRIAGE RIDGE OWNERS ASSOCIATION, by its Court-
appointed receiver, BDO CANADA LIMITED

Claimant

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
SCHEDULE A

Respondent

Court File No. CV-20-00640266-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO**

RECEIVER'S CLAIM

AIRD & BERLIS LLP
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Lawyers for the Claimant

Applicant

Court File No. CV-20-00640266-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

RECEIVER'S COLLECTION ORDER

AIRD & BERLIS LLP
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181 Bay Street, Suite 1800
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*Lawyers for BDO Canada Limited in its capacity as the
court-appointed Receiver of Carriage Ridge Owners
Association*

TAB I

Court File No. CV-20-00640265-00CL

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

THE HONOURABLE MADAM	)	THURSDAY, THE 2ND
)	
JUSTICE CONWAY	)	DAY OF JULY, 2020

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE HILLS VACATION
OWNERS ASSOCIATION** (the “**Applicant**”)

ORDER

THIS MOTION made by the Applicant for an Order that, *inter alia*: (i) approving the form, content and method of delivery of the Member Survey and the Member Survey Deadline, (ii) confirming that delinquent Members shall not be permitted to vote with respect to the Member Survey, (iii) approving the Exit Fee; (iv) approving the Delinquency Fee; (v) approving the First Report of BDO Canada Limited dated June 22, 2020 (the “**First Report**”), in its capacity as administrator of the Applicant (the “**Administrator**”), and the activities of the Administrator as set out therein, and (vi) approving the fees and disbursements of the Administrator and counsel to the Administrator, was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicant dated June 22, 2020 (the “**Motion Record**”), including the affidavit of Darren Chapelle, sworn June 22, 2020 (the “**Chapelle Affidavit**”) and the Exhibit thereto, the First Report and the appendices thereto, and on hearing the submissions of counsel for the Applicant, counsel for BDO, counsel for Lori Smith, Karen Levins and Bruce Fleming, Christopher Diana on behalf of himself and counsel for David and Phyllis Lennox, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Mitch Grossell, sworn June 30, 2020, filed.

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that all capitalized terms used herein that are not otherwise defined shall have the meaning ascribed to them in the First Report.

APPROVAL OF THE MEMBER SURVEY AND NOTICING PROCEDURE

3. **THIS COURT ORDERS** that the Member Survey substantially in the form and content attached as Schedule "A" to this Order, including but not limited to the amount of the Exit Fee, is hereby approved and the Administrator is authorized and directed to have the Member Survey issued in accordance with the terms of this Order.
4. **THIS COURT ORDERS** that the Administrator be and is hereby authorized and directed to retain Votenet to manage the online Member Survey, including sending email notifications and reminders to the Members, provide phone and email support services to the Members and provide the certified voting results and statistical reporting to the Administrator at an estimated cost of U.S. \$7,714.00.
5. **THIS COURT ORDERS** that within ten (10) days of the date of this Order:

- (a) the Administrator shall cause Votenet to send a link to the Member Survey via email to every Member that has provided a working email address; and
- (b) the Administrator shall send a paper copy of the Member Survey by regular mail to every Member that has not provided a working email address

provided that, the Administrator shall have no obligation to send the Member Survey to any Member with a Delinquent Account. In the event that the Delinquent Account of such Member is rectified before the Member Survey Deadline, the Administrator shall cause the Member Survey to be delivered to the Member. For greater certainty, notwithstanding the foregoing, the date of the

Member Survey Deadline shall not be extended beyond August 31, 2020 without the written consent of the Administrator.

RESPONSES TO THE MEMBER SURVEY

6. **THIS COURT ORDERS** that responses to the Member Survey shall be received by the Administrator by no later than August 31, 2020 (“**Member Survey Deadline**”). The Administrator shall not be required to consider any Member Survey received after the Member Survey Deadline.

7. **THIS COURT ORDERS** that Members with Delinquent Accounts (a “**Delinquent Member**”) shall not be entitled to participate or vote in the Member Survey. In the event that a Delinquent Member responds to the Member Survey, the Administrator shall disregard and not take into consideration the response of any such Delinquent Member. For greater certainty, Delinquent Members shall be treated as Members voting to exit.

8. **THIS COURT AUTHORIZES AND APPROVES** the nature and amount of the Delinquency Fee as set out in the First Report.

9. **THIS COURT ORDERS AND DIRECTS** the Administrator to send by email, to those Delinquent Members who have provided a valid email address, a notice to the Delinquent Members substantially in the form and content attached as Schedule “**B**” notifying the Delinquent Owners of the Delinquency Fee and that the Delinquent Owners are not entitled to participate in the Member Survey unless they bring their account current.

10. **THIS COURT ORDERS** that, in the case of any Member responding to the Member Survey indicating that he or she wishes to exit the Association, such decision shall be binding on such Member and that Member shall not be permitted to change their decision to exit after the Member Survey Deadline.

11. **THIS COURT ORDERS** that any Members (other than Delinquent Members) that do not respond to the Member Survey shall be deemed to have responded that the Member wishes to stay in the Resort.

NO LIABILITY OF THE ADMINISTRATOR

12. **THIS COURT ORDERS** that the Administrator shall incur no liability or obligation as a result of the terms of this Order or the carrying out by it of the provisions of this Order, save and except for gross negligence or wilful misconduct on its part, and nothing in this Order shall derogate from the protections afforded to the Administrator pursuant to the Administration Order.

CORPORATE GOVERNANCE

13. **THIS COURT ORDERS AND DECLARES** that the annual general meeting of the Applicant (the “AGM”) and the nomination and election process for directors of the Applicant is hereby suspended and deferred for a period of six months. Until the AGM is held in accordance with this Order, all current directors of the Applicant shall remain as directors of the Applicant.

APPROVAL OF FEES AND ACTIVITIES OF THE ADMINISTRATOR

14. **THIS COURT ORDERS** that the First Report filed in these proceedings and the Administrator’s activities as set out therein are hereby approved.

15. **THIS COURT ORDERS** that the professional fees and disbursements of the Administrator for (i) the period ending June 15, 2020 in the amount of \$63,156.00 plus HST of \$8,210.28 for a total of \$71,366.28 as set out in the Affidavit of Brad Newton sworn June 22, 2020 and attached as Appendix “L” to the First Report, are hereby approved.

16. **THIS COURT ORDERS** that the professional fees and disbursements of Aird & Berlis, counsel to the Administrator, for (i) the period ending June 17, 2020 in the amount of \$62,060.25 plus HST of \$8,067.83 for a total of \$70,128.08 as set out in the Affidavit of Sam Babe sworn June 22, 2020 and attached as Appendix “M” to the First Report, are hereby approved and the Association is authorized to pay its proportionate share of such fees in accordance with the terms of the Administration Order.

GENERAL

17. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

18. **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 Applicant, the Administrator and their respective 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 Applicant and to the Administrator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Administrator in any foreign proceeding, or to assist the Applicant and the Administrator and their respective agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that the Applicant and the Administrator be at liberty and are 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 Administrator 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.



SCHEDULE "A"
MEMBER SURVEY

CARRIAGE RIDGE AND CARRIAGE HILLS MEMBER SURVEY

PURPOSE OF SURVEY

The purpose of this survey is to determine which owners wish to immediately exit their resort intervals and which owners may wish to maintain at least one of their intervals in a “restructured resort”. The basic parameters of a “restructured resort” are found below. The Administrator needs to gauge the interest in exiting immediately versus remaining in a restructured resort in order to determine if a restructured resort is a viable option.

TIME TO COMPLETE SURVEY

This survey will available to be completed for 45 days only commencing **July __** and ending **August __**, 2020.

EFFECT OF SURVEY

This survey will be binding on those voting to exit. If this survey were not binding on those wanting to exit now, the Administrator would be forced to conduct multiple surveys involving numerous restructuring options which would take many months and be very expensive. Most importantly, such a delay would mean that an exit for owners would not be available before the next annual payment is due. The Administrator has heard directly from many owners that they want to exit before the next payment is due and we are trying to accommodate that request. Therefore, if you do not choose to exit now, you will be invoiced for next year’s fees, which will need to be paid to be eligible to continue in this process.

The survey will not be binding on those voting to stay. Until the results of this survey are available, we are unable to determine what a restructured resort will look like or whether a restructured resort is possible as we will not know how many owners wish to remain. Once this is known and assuming a restructuring is possible, we will be able to prepare a projection of what a restructured resort will look like and what the ongoing maintenance fees are likely to be. Those owners who indicated that they wanted to stay will then have 45 days to decide if they wish to remain or exit based on those terms. The owners choosing to exit after the second survey will go through the same exit process and fee as those who exited earlier.

If you choose to exit: Choosing the exit option below does not mean you have actually exited the time share or given up your interval(s). You will receive further information on precisely how to exit and the implications of exiting after the survey is completed and a final exit plan is approved by the Court. An Exit Fee (as set out in the chart below) will have to be paid by all those wishing to exit at this time or if you exit as discussed in the “If you choose to stay” paragraph below. After all or any portion of the resort is sold, there may be a payment made to all exiting owners (whether they exit under this survey or after the next). However, the exact amount of that payment will not be known until a sale is completed.

Total Cancellation Fee per Interval (including HST)	Every Year Interval		Even/Odd Year Interval	
	Red	White	Red	White
Carriage Hills	\$ 2,300.33	\$ 2,417.74	\$ 1,150.16	\$ 1,208.87
Carriage Ridge	\$ 2,282.38	\$ 2,399.17	\$ 1,141.19	\$ 1,199.58

If you choose to stay: Choosing to stay in a restructured resort does not mean you will automatically be part of a restructured resort in the future. The Administrator is simply trying to gauge your desire to do so. You will be provided with further information on what a future restructured resort will look like, together with the annual cost, after the survey is completed and the exit plan for those wishing to exit is approved by the Court. Depending on the results of the survey, it may be that a restructured resort is not feasible if not enough owners wish to remain in a restructured resort. It is anticipated that, once the exact terms and conditions of a restructured resort are determined, those terms will be shared with owners who voted to stay and you will again be able to choose to stay or to exit based on those exact terms.

If you do not reply to the survey: If you do not reply to the survey the Administrator will have to assume that you are voting to STAY in the resort. The Administrator CANNOT assume owners want to break a legal contract.

Please note, we require you to vote separately for each interval you own and only one vote per interval will be permitted

Please enter the following information:

Name of the owner of the time share _____

Please choose one of the following two options:

- Carriage Hills Interval
- Carriage Ridge interval

Please choose one of the following three options:

- Every year Interval
- Odd year Interval
- Even year Interval

Please choose one of the following two options.

- Do you want to exit now (this would include declaring the resort “obsolete”)?
- Do you want to remain in a “restructured resort”?

Pursuant to the time share agreement, in order for the resort to be determined to be “**obsolete**”, 75% of all intervals must be voted in favour of obsolescence. If more than 75% of intervals are voted in favour of obsolescence, then the **entire** resort must be sold. If less than 75% of all intervals are voted in favour of exiting, then it is possible that a portion of the resort will be sold to accommodate a smaller future resort. The process for the sale and the distribution of the proceeds of that sale will be proposed by the Administrator and have to be approved by the Court.

A “**restructured resort**” requires that, at a minimum, the time share agreement be altered to eliminate the perpetual nature of the Owners’ obligations. In other words, a mechanism would need to be created to provide Owners with the option to opt-out of the resort in the future (on terms to be determined) in the event that they are unable to sell their intervals. A successful restructured resort would also not see any significant escalation in annual maintenance fees. What exactly a restructured resort will look like and what the maintenance fees will be is uncertain and cannot be determined until the results of this survey are known.

No decisions have been made on what will happen with the resorts at this time. The results of the survey will help to inform all owners, the boards of directors, the Administrator and the Court as to what the next steps should be.

**SCHEDULE “B”
NOTICE TO DELINQUENT MEMBERS**

Proposed Email to Delinquent Members:

Pursuant to the records of Carriage Ridge Owners Association (“**CROA**”) and/or Carriage Hills Vacation Owners Association (“**CHVOA**”), you are a member of CROA and/or CHVOA (“**Member**”) and have outstanding fees owing to CROA and/or CHVOA (a “**Delinquent Account**”). Pursuant to the Order of the Ontario Superior Court of Justice dated July 2, 2020, as a Member with a Delinquent Account, you will not be permitted to vote in the Court-ordered Member Survey. In addition, a delinquency fee of \$1,000 (the “**Delinquency Fee**”) will be added to your account effective October 1, 2020.

However, if you pay your entire outstanding Delinquent Account before the Member Survey Deadline of August 31, 2020, you will be permitted to vote in the Member Survey. If you pay your outstanding account in full before September 30, 2020, you will not be assessed the Delinquency Fee.

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE HILLS VACATION OWNERS ASSOCIATION**

Court File No.: CV-20-00640265-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

Thornton Grout Finnigan LLP

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Lawyers for the Applicant, Carriage Hills Vacation Owners
Association

TAB J

Court File No. CV-20-00640266-00CL

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

THE HONOURABLE MADAM	)	THURSDAY, THE 2ND
)	
JUSTICE CONWAY	)	DAY OF JULY, 2020

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE RIDGE OWNERS
ASSOCIATION** (the “**Applicant**”)

ORDER

THIS MOTION made by the Applicant for an Order that, *inter alia*: (i) approving the form, content and method of delivery of the Member Survey and the Member Survey Deadline, (ii) confirming that delinquent Members shall not be permitted to vote with respect to the Member Survey, (iii) approving the Exit Fee; (iv) approving the Delinquency Fee; (v) approving the First Report of BDO Canada Limited dated June 22, 2020 (the “**First Report**”), in its capacity as administrator of the Applicant (the “**Administrator**”), and the activities of the Administrator as set out therein, and (vi) approving the fees and disbursements of the Administrator and counsel to the Administrator, was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicant dated June 22, 2020 (the “**Motion Record**”), including the affidavit of Laurie Kennedy, sworn June 22, 2020 (the “**Kennedy Affidavit**”) and the Exhibit thereto, the First Report and the appendices thereto, and on hearing the submissions of counsel for the Applicant, counsel for BDO, counsel for Lori Smith, Karen Levins and Bruce Fleming, Christopher Diana on behalf of himself and counsel for David and Phyllis Lennox, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Mitch Grossell, sworn June 30, 2020, filed.

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that all capitalized terms used herein that are not otherwise defined shall have the meaning ascribed to them in the First Report.

APPROVAL OF THE MEMBER SURVEY AND NOTICING PROCEDURE

3. **THIS COURT ORDERS** that the Member Survey substantially in the form and content attached as Schedule "A" to this Order, including but not limited to the amount of the Exit Fee, is hereby approved and the Administrator is authorized and directed to have the Member Survey issued in accordance with the terms of this Order.
4. **THIS COURT ORDERS** that the Administrator be and is hereby authorized and directed to retain Votenet to manage the online Member Survey, including sending email notifications and reminders to the Members, provide phone and email support services to the Members and provide the certified voting results and statistical reporting to the Administrator at an estimated cost of U.S. \$7,714.00.
5. **THIS COURT ORDERS** that within ten (10) days of the date of this Order:

- (a) the Administrator shall cause Votenet to send a link to the Member Survey via email to every Member that has provided a working email address; and
- (b) the Administrator shall send a paper copy of the Member Survey by regular mail to every Member that has not provided a working email address

provided that, the Administrator shall have no obligation to send the Member Survey to any Member with a Delinquent Account. In the event that the Delinquent Account of such Member is rectified before the Member Survey Deadline, the Administrator shall cause the Member Survey to be delivered to the Member. For greater certainty, notwithstanding the foregoing, the date of the

Member Survey Deadline shall not be extended beyond August 31, 2020 without the written consent of the Administrator.

RESPONSES TO THE MEMBER SURVEY

6. **THIS COURT ORDERS** that responses to the Member Survey shall be received by the Administrator by no later than August 31, 2020 (“**Member Survey Deadline**”). The Administrator shall not be required to consider any Member Survey received after the Member Survey Deadline.

7. **THIS COURT ORDERS** that Members with Delinquent Accounts (a “**Delinquent Member**”) shall not be entitled to participate or vote in the Member Survey. In the event that a Delinquent Member responds to the Member Survey, the Administrator shall disregard and not take into consideration the response of any such Delinquent Member. For greater certainty, Delinquent Members shall be treated as Members voting to exit.

8. **THIS COURT AUTHORIZES AND APPROVES** the nature and amount of the Delinquency Fee as set out in the First Report.

9. **THIS COURT ORDERS AND DIRECTS** the Administrator to send by email, to those Delinquent Members who have provided a valid email address, a notice to the Delinquent Members substantially in the form and content attached as Schedule “**B**” notifying the Delinquent Owners of the Delinquency Fee and that the Delinquent Owners are not entitled to participate in the Member Survey unless they bring their account current.

10. **THIS COURT ORDERS** that, in the case of any Member responding to the Member Survey indicating that he or she wishes to exit the Association, such decision shall be binding on such Member and that Member shall not be permitted to change their decision to exit after the Member Survey Deadline.

11. **THIS COURT ORDERS** that any Members (other than Delinquent Members) that do not respond to the Member Survey shall be deemed to have responded that the Member wishes to stay in the Resort.

NO LIABILITY OF THE ADMINISTRATOR

12. **THIS COURT ORDERS** that the Administrator shall incur no liability or obligation as a result of the terms of this Order or the carrying out by it of the provisions of this Order, save and except for gross negligence or wilful misconduct on its part, and nothing in this Order shall derogate from the protections afforded to the Administrator pursuant to the Administration Order.

CORPORATE GOVERNANCE

13. **THIS COURT ORDERS AND DECLARES** that the annual general meeting of the Applicant (the “AGM”) and the nomination and election process for directors of the Applicant is hereby suspended and deferred for a period of six months. Until the AGM is held in accordance with this Order, all current directors of the Applicant shall remain as directors of the Applicant.

APPROVAL OF FEES AND ACTIVITIES OF THE ADMINISTRATOR

14. **THIS COURT ORDERS** that the First Report filed in these proceedings and the Administrator’s activities as set out therein are hereby approved.

15. **THIS COURT ORDERS** that the professional fees and disbursements of the Administrator for (i) the period ending June 15, 2020 in the amount of \$63,156.00 plus HST of \$8,210.28 for a total of \$71,366.28 as set out in the Affidavit of Brad Newton sworn June 22, 2020 and attached as Appendix “L” to the First Report, are hereby approved.

16. **THIS COURT ORDERS** that the professional fees and disbursements of Aird & Berlis, counsel to the Administrator, for (i) the period ending June 17, 2020 in the amount of \$62,060.25 plus HST of \$8,067.83 for a total of \$70,128.08 as set out in the Affidavit of Sam Babe sworn June 22, 2020 and attached as Appendix “M” to the First Report, are hereby approved and the Association is authorized to pay its proportionate share of such fees in accordance with the terms of the Administration Order.

GENERAL

17. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

18. **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 Applicant, the Administrator and their respective 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 Applicant and to the Administrator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Administrator in any foreign proceeding, or to assist the Applicant and the Administrator and their respective agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that the Applicant and the Administrator be at liberty and are 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 Administrator 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.

Conroy J.

SCHEDULE "A"
MEMBER SURVEY

CARRIAGE RIDGE AND CARRIAGE HILLS MEMBER SURVEY

PURPOSE OF SURVEY

The purpose of this survey is to determine which owners wish to immediately exit their resort intervals and which owners may wish to maintain at least one of their intervals in a “restructured resort”. The basic parameters of a “restructured resort” are found below. The Administrator needs to gauge the interest in exiting immediately versus remaining in a restructured resort in order to determine if a restructured resort is a viable option.

TIME TO COMPLETE SURVEY

This survey will available to be completed for 45 days only commencing **July __** and ending **August __**, 2020.

EFFECT OF SURVEY

This survey will be binding on those voting to exit. If this survey were not binding on those wanting to exit now, the Administrator would be forced to conduct multiple surveys involving numerous restructuring options which would take many months and be very expensive. Most importantly, such a delay would mean that an exit for owners would not be available before the next annual payment is due. The Administrator has heard directly from many owners that they want to exit before the next payment is due and we are trying to accommodate that request. Therefore, if you do not choose to exit now, you will be invoiced for next year’s fees, which will need to be paid to be eligible to continue in this process.

The survey will not be binding on those voting to stay. Until the results of this survey are available, we are unable to determine what a restructured resort will look like or whether a restructured resort is possible as we will not know how many owners wish to remain. Once this is known and assuming a restructuring is possible, we will be able to prepare a projection of what a restructured resort will look like and what the ongoing maintenance fees are likely to be. Those owners who indicated that they wanted to stay will then have 45 days to decide if they wish to remain or exit based on those terms. The owners choosing to exit after the second survey will go through the same exit process and fee as those who exited earlier.

If you choose to exit: Choosing the exit option below does not mean you have actually exited the time share or given up your interval(s). You will receive further information on precisely how to exit and the implications of exiting after the survey is completed and a final exit plan is approved by the Court. An Exit Fee (as set out in the chart below) will have to be paid by all those wishing to exit at this time or if you exit as discussed in the “If you choose to stay” paragraph below. After all or any portion of the resort is sold, there may be a payment made to all exiting owners (whether they exit under this survey or after the next). However, the exact amount of that payment will not be known until a sale is completed.

Total Cancellation Fee per Interval (including HST)	Every Year Interval		Even/Odd Year Interval	
	Red	White	Red	White
Carriage Hills	\$ 2,300.33	\$ 2,417.74	\$ 1,150.16	\$ 1,208.87
Carriage Ridge	\$ 2,282.38	\$ 2,399.17	\$ 1,141.19	\$ 1,199.58

If you choose to stay: Choosing to stay in a restructured resort does not mean you will automatically be part of a restructured resort in the future. The Administrator is simply trying to gauge your desire to do so. You will be provided with further information on what a future restructured resort will look like, together with the annual cost, after the survey is completed and the exit plan for those wishing to exit is approved by the Court. Depending on the results of the survey, it may be that a restructured resort is not feasible if not enough owners wish to remain in a restructured resort. It is anticipated that, once the exact terms and conditions of a restructured resort are determined, those terms will be shared with owners who voted to stay and you will again be able to choose to stay or to exit based on those exact terms.

If you do not reply to the survey: If you do not reply to the survey the Administrator will have to assume that you are voting to STAY in the resort. The Administrator CANNOT assume owners want to break a legal contract.

Please note, we require you to vote separately for each interval you own and only one vote per interval will be permitted

Please enter the following information:

Name of the owner of the time share _____

Please choose one of the following two options:

- Carriage Hills Interval
- Carriage Ridge interval

Please choose one of the following three options:

- Every year Interval
- Odd year Interval
- Even year Interval

Please choose one of the following two options:

- Do you want to exit now (this would include declaring the resort “obsolete”)?
- Do you want to remain in a “restructured resort”?

Pursuant to the time share agreement, in order for the resort to be determined to be “**obsolete**”, 75% of all intervals must be voted in favour of obsolescence. If more than 75% of intervals are voted in favour of obsolescence, then the **entire** resort must be sold. If less than 75% of all intervals are voted in favour of exiting, then it is possible that a portion of the resort will be sold to accommodate a smaller future resort. The process for the sale and the distribution of the proceeds of that sale will be proposed by the Administrator and have to be approved by the Court.

A “**restructured resort**” requires that, at a minimum, the time share agreement be altered to eliminate the perpetual nature of the Owners’ obligations. In other words, a mechanism would need to be created to provide Owners with the option to opt-out of the resort in the future (on terms to be determined) in the event that they are unable to sell their intervals. A successful restructured resort would also not see any significant escalation in annual maintenance fees. What exactly a restructured resort will look like and what the maintenance fees will be is uncertain and cannot be determined until the results of this survey are known.

No decisions have been made on what will happen with the resorts at this time. The results of the survey will help to inform all owners, the boards of directors, the Administrator and the Court as to what the next steps should be.

**SCHEDULE “B”
NOTICE TO DELINQUENT MEMBERS**

Proposed Email to Delinquent Members:

Pursuant to the records of Carriage Ridge Owners Association (“**CROA**”) and/or Carriage Hills Vacation Owners Association (“**CHVOA**”), you are a member of CROA and/or CHVOA (“**Member**”) and have outstanding fees owing to CROA and/or CHVOA (a “**Delinquent Account**”). Pursuant to the Order of the Ontario Superior Court of Justice dated July 2, 2020, as a Member with a Delinquent Account, you will not be permitted to vote in the Court-ordered Member Survey. In addition, a delinquency fee of \$1,000 (the “**Delinquency Fee**”) will be added to your account effective October 1, 2020.

However, if you pay your entire outstanding Delinquent Account before the Member Survey Deadline of August 31, 2020, you will be permitted to vote in the Member Survey. If you pay your outstanding account in full before September 30, 2020, you will not be assessed the Delinquency Fee.

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED AND IN THE MATTER OF THE
ADMINISTRATION PROCEEDINGS OF **CARRIAGE RIDGE OWNERS ASSOCIATION**

Court File No.: CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

Thornton Grout Finnigan LLP

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Lawyers for the Applicant, Carriage Ridge Owners
Association

TAB K

Court File No. CV-20-00640266-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CARRIAGE RIDGE OWNERS ASSOCIATION, by its Court-
appointed receiver, BDO CANADA LIMITED

Claimant

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
APPENDIX “A”

Respondent

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE RIDGE OWNERS
ASSOCIATION**

SETTLEMENT OFFER

The Claimant, Carriage Ridge Owners Association by its Court-appointed receiver, BDO Canada Limited (in such capacity, the “**Receiver**”), offers to settle the Receiver’s Claim enclosed with this Settlement Offer (the “**Receiver’s Claim**”) on the following terms:

1. The Subject Member shall pay to the Receiver the amount identified as the Proposed Account Settlement as set out on the attached **Appendix “A”** (the “**Settlement Amount**”).
2. For the purpose of encouraging settlement, a litigation avoidance discount, approved by Order of Madam Justice Conway of the Ontario Superior Court of Justice made March 8,

2021 (the “**Discount**”), has been incorporated into the Settlement Amount. The Discount is equal to the aggregate amount of all late fees, administrative fees, accrued financing and other charges assessed by the Association against the Subject Member’s account but does not include any amount in respect of the \$1,000 Delinquency Fee charged pursuant to the Order of Madam Justice Conway made July 2, 2020, or any amount in respect of the \$500 Collection Fee assessed by the Receiver.

3. The Receiver shall accept payment of the Settlement Amount in full and final settlement of the Receiver’s Claim if this Settlement Offer is accepted and payment is made by no later than thirty (30) days from the date of service of this Settlement Offer (the “**Acceptance of Settlement Deadline**”).
4. The Receiver shall provide any Subject Member who pays the Settlement Amount by the Acceptance of Settlement Deadline with confirmation of full and final satisfaction of the Receiver’s Claim.
5. If you wish to accept this Settlement Offer, you must execute Appendix “A” and return the executed document together with the Settlement Amount to the Receiver by the Acceptance Settlement Deadline. The required payment and the executed Settlement Offer may be delivered by prepaid registered mail, courier or personal delivery to:

BDO CANADA LIMITED

20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Ridge Collections

6. Note that this Settlement Offer is not made in respect of, nor will acceptance of this Settlement Offer compromise, any amounts owing by the Subject Member to the Association that do not form part of the Receiver's Claim. These excluded amounts will include any amounts subject to:
- (a) a legal proceeding for the collection thereof already commenced by the filing of a claim; or
 - (b) a payment plan agreed to between the member and the Applicant's collections agent, where the member is not in default under such plan.

Date: , 2021

AIRD & BERLIS LLP

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*Lawyers for BDO Canada Limited in its
capacity as the court-appointed Receiver of
Carriage Ridge Owners Association*

Appendix "A"
Proposed Account Settlement

Subject Member Name: <*>

Subject Member Carriage Ridge Owners Association Account No.: <*>

Proposed Account Settlement amount = \$<*>

This Settlement Offer must be accepted by return of the acceptance below along with payment of the above amount within thirty (30) days from the date of service of this Settlement Offer.

* * *

In consideration of the Settlement Offer and the Discount contained therein, the undersigned Subject Members hereby accepts the Settlement Offer as of the ____ day of _____, 2021 and encloses herewith irrevocable payment in the amount of the Proposed Account Settlement.

Witness Name:)
)
)
)
)
)
)
)

<*>

CARRIAGE RIDGE OWNERS ASSOCIATION, by its
Court-appointed receiver, BDO CANADA LIMITED

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
APPENDIX "A"

Claimant

Respondent

Court File No. CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO

SETTLEMENT OFFER

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*Lawyers for BDO Canada Limited in its capacity as
the court-appointed Receiver of Carriage Ridge
Owners Association*

TAB 3

Court File No. CV-20-00640265-00CL
Court File No. CV-20-00640266-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
Commercial list

**IN THE MATTER OF SECTION 101 OF THE *COURTS OF*
JUSTICE ACT, R.S.O 1990, C. C. 43, AS AMENDED**

**AND IN THE MATTERS OF THE ADMINISTRATION OF
CARRIAGE HILLS VACATION OWNERS ASSOCIATION**

**AND IN THE MATTERS OF THE ADMINISTRATION OF
CARRIAGE RIDGE OWNERS ASSOCIATION**

Applicants

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Administrator of the Applicant

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**AND IN THE MATTERS OF THE ADMINISTRATION PROCEEDINGS OF CARRIAGE RIDGE
OWNERS ASSOCIATION**

Court File No. CV-20-00640266-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto**

**MOTION RECORD
(Returnable March 8, 2021)**

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