

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 any terms not otherwise defined herein shall have the meanings ascribed to them in the Receiver's Collection Plan Order made in these proceedings on February 16, 2021 (the "**Receiver's Collection Plan Order**").
3. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:
 - (a) "**Appeal**" means an appeal of a Claims Decision by a Subject Member;
 - (b) "**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;
 - (c) "**Claims Decision(s)**" means the Claims Officer's written decision following his determination of each Disputed Claim, issued by the Claims Officer to the Receiver and the applicable Subject Member in accordance with the Receiver's Collection Plan Order;
 - (d) "**Claims Decisions Appeals Procedure**" means the procedure set out in this Claims Decisions Appeals Procedure Order;
 - (e) "**Court**" means the Ontario Superior Court of Justice (Commercial List);
 - (f) "**Notice of Appeal**" means a notice of an Appeal that has been served upon the Receiver within the Appeal Period pursuant to the Receiver's Collection Plan Order;
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.

APPEALS MOTION

6. **THIS COURT ORDERS** that the Receiver shall schedule with the Court office, and bring, a motion (the “**Appeals Motion**”) for the adjudication of all Appeals in respect of which it has received a Notice of Appeal excluding Appeals where the dispute over the Receiver’s Claim has been settled between the Receiver and the applicable Subject Member(s) subsequent to service of the Notice of Appeal. The Appeals Motion shall be an omnibus motion for the adjudication of all Appeals, but each Appeal shall be heard by the Court separately in accordance with the terms of this Claims Decisions Appeals Procedure Order.

7. **THIS COURT ORDERS** that the hearing of each Appeal shall:

- (a) be conducted by Zoom judicial videoconference, with a Court reporter;
- (b) be a maximum of 30 minutes in length, including any time allotted by the Court for a response by the Receiver; and
- (c) in accordance with the Receiver’s Collection Plan Order, proceed as a true appeal based on the record before the Claims Officer.

8. **THIS COURT ORDERS** that the Receiver shall:

- (a) assign a specific 30-minute time slot to each Appeal on a day scheduled with the Court office for the Appeals Motion, grouping Appeals, where applicable, by any common issues they raise;
- (b) include in its motion record for the Appeals Motion a master schedule setting out the time slot assigned to each Appeal (the “**Master Appeal Schedule**”);
- (c) serve the motion record for the Appeals Motion upon each Subject Member bringing an Appeal;

- (d) as soon as practicable after the Appeals Motion Zoom videoconference coordinates are made available, provide to each appellant Subject Member a calendar invitation for that Subject Member's assigned Appeals Motion hearing time, containing the applicable coordinates for the Appeals Motion Zoom videoconference; and
- (e) for each Appeal, create, serve upon the applicable Subject Member(s) and file on Caselines an Appeal index (each, an "**Appeal Index**") which will contain:
 - (i) the appellant Subject Member's or Members' name(s);
 - (ii) the Appeal's assigned date and time per the Master Appeal Schedule;
 - (iii) the breakdown of the Receiver's Claim in dispute, including any cost award made by the Claims Officer; and
 - (iv) hyperlinks to the applicable Claims Decision and to each document forming part of the record before the Claims Officer, all of which documents shall be electronically hosted by the Receiver or its counsel until the expiry of any applicable appeal period in respect of the determination by the Court on the Appeal,

but shall not contain any summary of or commentary on the Appeal or the issues raised therein.

9. **THIS COURT ORDERS** that a Subject Member who has served a Notice of Appeal on the Receiver shall not be required to take any other steps in respect of the Appeal or the Appeals Motion other than to appear for the hearing of the Appeal on the date and at the time assigned in the Master Appeal Schedule. Subject Members should join the Zoom hearing 30 minutes prior to their scheduled Appeal time, and will be let into the hearing by the Court registrar at the appropriate time.

10. **THIS COURT ORDERS** that the hearing of each Appeal shall commence by counsel to the Receiver identifying the Appeal and directing the Court to the applicable Appeal Index on Caselines.

11. **THIS COURT ORDERS** that the Court shall retain its discretion to make costs awards against the unsuccessful party in respect of any Appeal.

12. **THIS COURT ORDERS** that Subject Members who do not appear for the scheduled hearing of their Appeal shall be deemed to have abandoned the Appeal and 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.

ISSUANCE OF JUDGMENTS

13. **THIS COURT ORDERS** that the Receiver will be entitled to judgment against any Subject Member(s) whose Appeal has been in whole or in part dismissed by the Court or whose Appeal has been deemed abandoned pursuant to paragraph 12 hereof. The amount of such judgment will be equal the sum of: (i) the Claims Decision (including any cost awarded by the Claims Officer) or any decision substituted for the Claims Decision by the Court on the Appeal; plus (ii) any costs awarded by the Court on the Appeal.

14. **THIS COURT ORDERS** that the Receiver shall bring an omnibus motion to the Court for the purpose of obtaining the judgments to which it is entitled but needs not provide the applicable Subject Members with any notice of such motion for judgments.

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

SERVICE

16. **THIS COURT ORDERS** that any service or notice by ordinary mail, courier, personal delivery or electronic or digital transmission shall be deemed to have been received: (i) if sent by

ordinary mail, on the third (3rd) Business Day after mailing within Ontario, the fifth (5th) Business Day after mailing within Canada (other than within Ontario), and the tenth (10th) Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by electronic or digital transmission 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.

17. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in the administration of the Claims Decisions Appeals Procedure, the service of documents made in accordance with the Protocol (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 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.

18. **THIS COURT ORDERS** that any notice or communication to be given to the Receiver in connection with the Claims Decisions Appeal Procedure shall be in writing 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

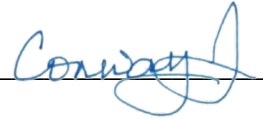
Attention: Carriage Hills Collections

Email: BDOCarriageHills@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.

GENERAL

19. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court to amend, vary or supplement this Claims Decisions Appeals Procedure Order or for advice and directions in the discharge of their respective powers and duties hereunder.

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

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 HILLS VACATIONS OWNERS ASSOCIATION

Applicant

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

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

**CLAIMS DECISIONS APPEALS
PROCEDURE 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

E-mail: smitra@airdberlis.com

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*