

**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 Ginsherman 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.

Conway J.

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
Email: lwilliams@tgf.ca

Mitchell W. Grossell (LSO# 69993I)

Tel: 416-304-7978
Email: mgrossell@tgf.ca

Fax: 416-304-1313

Lawyers for the Applicant