

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 17TH
JUSTICE CONWAY) DAY OF DECEMBER, 2019

BETWEEN:

PEOPLES TRUST COMPANY

Applicant

- and -

ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY

Respondent

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c B-3,
as amended, and section 101 of the *Courts of Justice Act*, as amended

APPROVAL AND VESTING ORDER

THIS MOTION, made by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and RYKKA Care Centres LP (the “**Purchaser**”) dated 13 May 2019 (as amended) and appended to the Tenth Report of the Receiver dated 10 December 2019 (the “**Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.



ON READING the Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such amendments as the Receiver may deem necessary.

2. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to: (i) subject to obtaining the approval of the Purchaser, complete the Schedules to the certificate in the form attached as Schedule A (the "**Receiver's Certificate**"); and (ii) take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Receiver's Certificate all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement, including the property identified on **Schedule 1** to the Receiver's Certificate shall vest absolutely in the Purchaser, as beneficial owner, and as the Purchaser may direct on closing, as registered owner, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order dated 27 September 2011; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule 2** to the Receiver's Certificate (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule 3** to the Receiver's Certificate) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for Land Titles Division of Metropolitan Toronto (64 and 66) (CRO#80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act and/or the Land Registrations Reform Act*, the Land Registrar is hereby directed to enter such person as the Purchaser may direct on closing as the owner of the real property identified on Schedule 1 to the Receiver's Certificate (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule 3 to the Receiver's Certificate.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

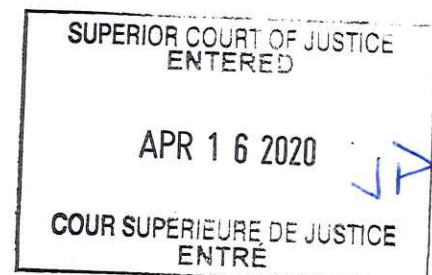
8. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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 or to assist the Receiver and its agents in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Conway", is written over a horizontal line.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-11-9399-00CL

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RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice dated 27 September 2011, Deloitte Restructuring Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”).

B. Pursuant to an Order of the Court dated 17 December 2019, the Court approved an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and RYKKA Care Centres LP (the “**Purchaser**”) dated 13 May 2019 (as amended) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, including the real property identified on Schedule 1 which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section [Number] of the Sale Agreement have been

satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The Purchaser has consented to the attached Schedules;
3. The conditions to Closing as set out in section [Number] of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
4. The Transaction has been completed to the satisfaction of the Receiver.
5. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

DELOITTE RESTRUCTURING INC., in its capacity as Receiver of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community, and not in its personal capacity

Per: _____
Name:
Title:

Schedule 1

Real Property

Schedule 2

Claims to be deleted and expunged from title to Real Property

Schedule 3

**Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(Unaffected by the Vesting Order)

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