No. H-250800
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ROYAL BANK OF CANADA

PETITIONER

AND:

1075 NELSON DEVELOPMENT LIMITED PARTNERSHIP, 1075 NELSON DEVELOPMENT GP INC., 1075 NELSON DEVELOPMENT HOLDINGS INC., BRIVIA FAMILY INVESTMENTS INC., KHENG LY, 1409658 B.C. LTD., and TRAVELERS INSURANCE COMPANY OF CANADA

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: Deloitte Restructuring Inc., in its capacity as court-appointed receiver and manager (in such capacity, the "**Receiver**") of 1075 Nelson Development Limited Partnership, 1075 Nelson Development GP Inc. and 1075 Nelson Development Holdings Inc. (collectively, the "**Debtors**")

To: The Service List

TAKE NOTICE that an application will be made by the applicant to the Honourable Justice Blake at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on a date set by Notice of Hearing of Application for the orders set out in Part 1 below.

The applicant estimates that the application will take 1 hour.

The parties have agreed that the matter will be heard on December 10 and 11, 2026.

☒ This matter is not within the jurisdiction of an Associate Judge.

Part 1: ORDER(S) SOUGHT

1. An Order, substantially in the form of the draft order attached as **Schedule "A"** to this Notice of Application (the "**Order**"):

   (a) that service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given;

   (b) approving the activities of the Receiver as described in the First Report of the Receiver dated August 31, 2026 (the "**First Report**") and the Supplement to the First Report of the Court-Appointed Receiver dated August 31, 2026 (the "**First Report Supplement**");

   (c) approving the Receiver's interim statement of receipts and disbursements for the period from July 25, 2025 to August 19, 2026, as described in the First Report (the "**Interim Statement**");

   (d) authorizing and empowering the Receiver to make one or more distributions to Royal Bank of Canada, in its capacity as administrative agent for the lending syndicate comprising Royal Bank of Canada, Bank of Montreal and Meridian Credit Union (collectively, the "**Syndicate**"), from the funds held by the Receiver, in such amounts and at such times as the Receiver considers appropriate (each such distribution, a "**Syndicate Distribution**" and collectively, the "**Syndicate Distributions**"), subject to the Receiver retaining the reserves described in the First Report, without further order of this Court;

   (e) such further and other relief as counsel may advise and this Honourable Court may deem just.

Part 2: FACTUAL BASIS

A. Background

1. Royal Bank of Canada ("**RBC**") is the petitioner in these proceedings. The respondents are 1075 Nelson Development Limited Partnership, 1075 Nelson Development GP Inc.,

1075 Nelson Development Holdings Inc., Brivia Family Investments Inc., Kheng Ly, 1409658 B.C. LTD., and Travelers Insurance Company of Canada (collectively, the "**Respondents**").

2. 1075 Nelson Development Limited Partnership, 1075 Nelson Development GP Inc. and 1075 Nelson Development Holdings Inc. are the entities over whose assets the Receiver was appointed (collectively, the "**Debtors**"). Pursuant to an order of this Court dated July 25, 2025 (the "**Receivership Order**"), Deloitte Restructuring Inc. was appointed as receiver and manager of the Debtors.

3. The Debtors' principal asset is the real property and development project located at 1075 Nelson Street, Vancouver, British Columbia, with PID 031-725-953 (the "**Lands**"). A partly-occupied 28-unit residential building (the "**Rental Property**") and an adjacent uninhabitable former rental building (the "**Derelict Property**") are currently situated on the Lands. The Lands, the Rental Property and the Derelict Property comprise the "**Property**".

4. The Debtors' project was a planned 60-storey condominium tower known as "**CURV**", but construction had not commenced as at the date of the Receivership Order.

5. The Receiver relies on the First Report and the First Report Supplement, which describe the history of the receivership, the Receiver's activities, the Interim Statement, and the proposed Syndicate Distributions. Capitalized terms not otherwise defined herein have the meaning ascribed to them in the First Report or the First Report Supplement.

B. The Receiver's Activities

6. Since its appointment, the Receiver has undertaken the activities described in the First Report and the First Report Supplement, including, among other things:

   (a) taking possession and control of the Debtors' Property and undertaking steps to preserve and protect the Property;

   (b) reviewing the Debtors' books, records, financial affairs and obligations, and liaising with RBC, the Syndicate, the Debtors and other stakeholders;

   (c) retaining CBRE Limited ("**CBRE**") as listing broker and implementing a marketing and sale process for the Property;

(d) preparing and distributing marketing materials, establishing a confidentiality and non-disclosure process and data room, and responding to and assessing interest from prospective purchasers;

(e) engaging with Northlink Capital LLC ("**Northlink**") and other interested parties regarding the sale of the Property;

(f) monitoring and addressing development and permitting matters relating to the Property, including City of Vancouver building permit application BP-2022-04075;

(g) communicating with the Pre-Sale Purchasers regarding the status of the Project and, where a Pre-Sale Purchaser elected to terminate its Pre-Sale Contract, facilitating that termination by way of a mutual termination and release agreement, which enabled the Pre-Sale Purchasers to pursue the return of their deposits;

(h) recovering the building permit fee of $1,419,865 from the City of Vancouver;

(i) collecting advance commission refunds from realtors;

(j) administering the receivership, including maintaining cash management and records of receipts and disbursements and communicating with stakeholders; and

(k) preparing the First Report, the First Report Supplement, and related materials for this Court.

C. Interim Receipts and Disbursements

7. The Receiver has maintained records of the receipts and disbursements incurred in the administration of the receivership. The First Report describes those receipts and disbursements and includes the Receiver's Interim Statement.

8. The Receiver seeks approval of the interim receipts and disbursements described in the First Report and the Interim Statement. The applicable reporting period is July 25, 2025 to August 19, 2026, and the total amounts are receipts of $2,155,370, disbursements of $941,084, and net cash of $1,214,286.

9. Approval is sought on an interim basis and is without prejudice to any further order of this Court regarding the administration of the receivership.

D. Proposed Syndicate Distributions

10. The First Report describes the proposed Syndicate Distributions from the funds held by the Receiver. The Receiver seeks authority to make one or more Syndicate Distributions, in such amounts and at such times as the Receiver considers appropriate, subject to the Receiver retaining the reserves described in the First Report.

11. The Syndicate is the first-ranking secured creditor of the Debtors and was owed $92,969,844 as at the date of the order nisi granted on October 15, 2025 (the "**Order nisi**"), together with interest that continues to accrue. Other than the Receiver's Charge, the Receiver's Borrowings Charge and Travelers' potential priority claim in respect of the Vendor Funds, the Receiver is not aware of any claim that ranks in priority to the Syndicate's security.

12. The Receiver's Borrowings Charge has been satisfied through the repayment of the Receiver's borrowings. The Receiver borrowed $300,000 under the Borrowing Facility, and that amount plus accrued interest of $12,955 was fully repaid on May 7, 2026.

13. CRA conducted a GST audit and issued a reassessment of $106,243 (the "**CRA Claim**"). Based on legal advice, the Receiver is advised that the CRA Claim is subordinate to the Syndicate Mortgage as a prescribed security interest under subsection 222(4) of the *Excise Tax Act* and section 2 of the *Security Interest (GST/HST) Regulations*.

14. As at August 19, 2026, the Receiver had collected gross receipts of $2,155,370, made disbursements totalling $941,084 and held a net cash balance of $1,214,286.

15. Accordingly, the Receiver seeks authority to make one or more distributions to the Syndicate, in such amounts and at such times as the Receiver considers appropriate.

16. Before making any Syndicate Distribution, the Receiver intends to retain sufficient funds to satisfy: (a) the accrued and anticipated fees and disbursements of the Receiver and its counsel through the completion of these Receivership Proceedings; (b) the ongoing costs and other obligations associated with the administration of these Receivership Proceedings, including any post-receivership legal fees incurred by McCarthy Tétrault LLP that are agreed upon by the Receiver and McCarthy Tétrault LLP; and (c) the Vendor Funds, being the funds subject to the unresolved priority dispute between the Syndicate and Travelers.

17. The Receiver will carve out and reserve the Vendor Funds, before payment of McCarthy Tétrault LLP's asserted fees, from any Syndicate Distribution and will hold those funds pending an agreement between the Syndicate and Travelers regarding entitlement and priority or a further order of this Court. Subject to those reserves, the Receiver considers that the Syndicate Distributions can be made without prejudice to any person who may be entitled to payment from the funds held by the Receiver.

E. Conclusion

18. The Receiver has acted in good faith and in accordance with the Receivership Order in carrying out the activities described in the First Report and the First Report Supplement.

19. Approval of the Receiver's activities and the interim receipts and disbursements, together with authorization for the Receiver to make one or more distributions to the Syndicate, in such amounts and at such times as the Receiver considers appropriate, subject to the Receiver retaining the reserves described in the First Report, will provide certainty to the receivership and allow the Receiver to implement the distributions to reduce the outstanding balance of the Debtors' secured debt.

20. The relief sought is limited to the matters described in Part 1 and is supported by the First Report and the First Report Supplement.

21. Accordingly, the Receiver is of the view that it is just and appropriate for this Honourable Court to approve the Receiver's activities and interim receipts and disbursements, and authorize the Receiver to make one or more distributions to the Syndicate in such amounts and at such times as the Receiver considers appropriate, subject to the Receiver retaining the reserves described in the First Report.

Part 3: LEGAL BASIS

1. The Receiver will rely on:

   (a) The Receivership Order;

   (b) The Order nisi;

   (c) The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, including sections 243 and 244;

(d) The *Law and Equity Act*, RSBC 1996, c 253, including section 39;

(e) Rules 8-1 and 10-2 of the Supreme Court Civil Rules;

(f) The inherent and equitable jurisdiction of this Honourable Court; and

(g) Such further and other legal bases and authorities as counsel may advise and this Honourable Court may permit.

A. Approval of the Receiver's Activities

2. Under its inherent jurisdiction and supervisory jurisdiction over court-appointed receivers, this Court may approve the activities of a receiver where the receiver has acted reasonably, prudently and in good faith.

3. In appointing a receiver, the Court relies on the receiver's expertise. The Court should assume that the receiver is acting properly unless the contrary is clearly shown and should be reluctant to second-guess the considered business decisions of its receiver.

Leslie & Irene Dube Foundation Inc. v. P218 Enterprises Ltd., 2014 BCSC 1855 at para 54.

4. The Receiver has carried out the activities described in the First Report and the First Report Supplement in good faith and has acted reasonably, prudently and not arbitrarily in the circumstances.

Shape Capital Corp. v. Keltic (Prior) Development Limited, 2026 BCSC 464 [***Shape Capital***] at paras 39 and 41.

5. The Court should give appropriate deference to the Receiver's recommendations where they fall within the Receiver's mandate and are reasonable in the circumstances.

Shape Capital at para 40, citing *Chahal v. Chabra*, 2014 ONSC 6770 at para 23.

6. Approval of the Receiver's activities is appropriate because it will provide certainty and finality, permit stakeholders to raise any specific concerns, and enable the Court to satisfy itself that the Receiver's court-mandated activities were conducted diligently and prudently.

Target Canada Co. (Re), 2015 ONSC 7574 at para 23, cited in *Shape Capital*, at para 40.

7. The Receiver's activities included the marketing and sale process described in the First Report and the First Report Supplement, including engagement with CBRE, Northlink and other prospective purchasers. The First Report Supplement details the Receiver's continued efforts to engage with Northlink and market the Property.

8. Accordingly, the Receiver's activities should be approved as described in the First Report and the First Report Supplement.

B. Approval of Interim Receipts and Disbursements

9. The Receivership Order and this Court's supervisory jurisdiction permit the Court to review and approve a receiver's interim receipts and disbursements. The Receiver seeks approval of the Interim Statement and the interim receipts and disbursements described in the First Report.

C. Authorization for Proposed Syndicate Distributions

10. The Court has jurisdiction under section 243 of the *Bankruptcy and Insolvency Act* and its inherent supervisory jurisdiction to authorize interim distributions from funds held by a court-appointed receiver where the receiver has confirmed that: (a) the secured creditor's security is valid and has priority; (b) the distribution can be made without prejudice to other stakeholders; and (c) adequate reserves will be retained for the remaining costs, obligations and disputed claims in the receivership.

11. The First Report confirms that the Syndicate's security was validated by the Order nisi, which confirmed the validity, enforceability and priority of the Syndicate Mortgage and the GSA. The Receiver has also confirmed that it will retain sufficient reserves before making any Syndicate Distribution, including for accrued and anticipated fees and disbursements, ongoing administration costs and the Vendor Funds.

12. The British Columbia Court of Appeal confirmed that the power to authorize a receiver to make a distribution to creditors is implicit in the BIA. The power is "incorporated in the order appointing the Receiver, which is expressly made pursuant to the BIA and the LEA."

Forjay Management Ltd. 625536 B.C. Ltd., 2019 BCCA 368 at para. 31.

13. The Receivership Order includes a provision that funds collected by the Receiver would be "held by the Receiver to be paid In accordance with the terms of this Order or any

further Orders of the Court." The Receivership Order further authorized the Receiver to apply to the court for advice and directions in the discharge of its powers and duties.

Receivership Order, at paras 12 and 35

14. The Receiver therefore seeks authorization to make one or more Syndicate Distributions from the funds held by the Receiver, in such amounts and at such times as the Receiver considers appropriate, subject to the Receiver retaining the reserves described in the First Report, without further order of this Court.

Part 4: MATERIAL TO BE RELIED ON

1. First Report of the Receiver dated August 31, 2026;

2. Supplement to the First Report of the Court-Appointed Receiver dated August 31, 2026;

3. Such further and other material as counsel may advise and this Honourable Court may permit.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

(a) file an application response in Form 33;

(b) file the original of every affidavit, and of every other document, that

(i) you intend to refer to at the hearing of this application, and

(ii) has not already been filed in the proceeding; and

(c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

(i) a copy of the filed application response;

(ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

November 13, 2026
Date

Signature of ☑ lawyer for filing party
DLA Piper (Canada) LLP (Arad Mojtahedi)
Lawyer for the Receiver

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this notice of application

☐ with the following variations and additional terms:

_____
_____
_____
_____

Date: _____

Signature of ☐ Judge ☐ Associate Judge

SCHEDULE "A"
(Draft Order)

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RESPONDENTS

ORDER MADE AFTER APPLICATION
(ACTIVITY, INTERIM RECEIPTS AND DISBURSEMENTS, AND DISTRIBUTION APPROVAL)

BEFORE	THE HONOURABLE JUSTICE BLAKE	December ____, 2026

ON THE APPLICATION of Deloitte Restructuring Inc. (the "**Receiver**"), in its capacity as receiver solely of 1075 Nelson Development Limited Partnership, 1075 Nelson Development GP Inc. and 1075 Nelson Development Holdings Inc. (collectively, the "**Debtors**"), coming on for hearing at the Supreme Court of British Columbia, 800 Smithe Street, Vancouver, British Columbia, on December 10 and 11, 2026, and on hearing Arad Mojtahedi, counsel for the Receiver, and those other counsel listed on Schedule "**A**" hereto, and no one else appearing; and upon reading the material filed, including the First Report of the Receiver dated August 31, 2026 (the "**First Report**"), the Supplement to the First Report of the Receiver dated August 31, 2026 (the "**First Report Supplement**").

THIS COURT ORDERS that:

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.

2. In this Order, unless otherwise indicated, capitalized terms not defined herein shall have the meaning ascribed to them in the First Report.

ACTIVITIES AND INTERIM RECEIPTS AND DISBURSEMENTS

3. The activities of the Receiver as described in the First Report and the First Report Supplement are hereby approved.

4. The Receiver's interim statement of receipts and disbursements for the period from July 25, 2025 to August 19, 2026, as set out in the First Report, is hereby approved.

DISTRIBUTION APPROVAL

5. The Receiver is hereby authorized to make one or more distributions to Royal Bank of Canada, in its capacity as administrative agent for the lending syndicate comprising Royal Bank of Canada, Bank of Montreal and Meridian Credit Union (collectively, the "**Syndicate**"), from the funds held by the Receiver, in such amounts and at such times as the Receiver considers appropriate. Before making any such distribution, the Receiver shall exercise its discretion to retain sufficient funds (the "**Reserves**") for:

   (a) accrued and anticipated fees and disbursements of the Receiver and its counsel through completion of the Receivership Proceedings;

   (b) ongoing costs and other obligations relating to the administration of the Receivership Proceedings, including any agreed post-receivership legal fees of McCarthy Tétrault LLP; and

   (c) the Vendor Funds pending resolution of the priority dispute between the Syndicate and Travelers Insurance Company of Canada or further order of this Court.

6. The payments, distributions and disbursements made pursuant to this Order, and any other Order of this Honourable Court in these proceedings, shall be deemed, *nunc pro tunc*, to be made 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, shall be binding on any other trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Receiver, Syndicate or any other party receiving payments, distributions or disbursements pursuant to this Order, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. Any payments, distributions and disbursements made by the Receiver under this Order and any other Order made in these proceedings shall not constitute a "distribution" for the purposes of section 159 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp), or section 270 of the *Excise Tax Act*, RSC 1985, c E-15, or any other similar federal or provincial legislation (collectively, the "**Tax Statutes**"). The Receiver in making any such payments, distributions or disbursements is not "distributing", nor shall be considered to "distribute" nor have "distributed", such funds or property for the purpose of the Tax Statutes and the Receiver shall not incur any liability under the Tax Statutes in respect of the making of any payments, distributions or disbursements ordered or permitted under this Order or any other Order made in these proceedings.

8. In addition to the rights and protections afforded to the Receiver under any other Order made in these proceedings, the Receiver shall not be liable for any act or omission on the part of the Receiver pertaining to the distribution of funds under this Order or any other Order of this Honourable Court, save and except for any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Receiver. Nothing in this Order shall derogate from the protections afforded to the Receiver under any other Order made in these proceedings, or any other federal or provincial law.

GENERAL

9. The Receiver is hereby authorized and directed to take any steps and execute any documents necessary or incidental to the implementation of this Order, in the name of any of the Debtors or otherwise, as may be necessary or desirable, solely in its capacity as

court-appointed receiver and manager and not in its personal or corporate capacity, and the Receiver shall have no personal or corporate liability in respect thereof.

10. Any party affected by this Order may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

11. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complementary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Petitioner, the Respondents or the Receiver 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 Petitioner, the Respondents or the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Petitioner, the Respondents or the Receiver and their respective agents in carrying out the terms of this Order.

12. Endorsement of this Order by counsel or any unrepresented party appearing on this application, other than counsel to the Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of ☑ lawyer for filing party
DLA Piper (Canada) LLP (Arad Mojtahedi)

BY THE COURT

REGISTRAR

SCHEDULE "A"
List of Counsel

NAME	PARTY

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RESPONDENTS

ORDER MADE AFTER APPLICATION (ACTIVITY, INTERIM RECEIPTS AND DISBURSEMENTS, AND DISTRIBUTION APPROVAL)

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Tel. No. 604.687.9444
Fax No. 604.687.1612

File No.: 036474-00008 AM/nn

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ oral matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

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RESPONDENTS

NOTICE OF APPLICATION

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