

**ONTARIO,  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
TRINITY RAVINE COMMUNITY INC.

**MOTION RECORD OF THE APPLICANT  
(Stay Extension, Returnable July 18, 2022)**

July 14, 2022

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Lawyers for the Applicant, Trinity Ravine  
Community Inc.

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(as of July 14, 2022)**

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**ONTARIO,  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
TRINITY RAVINE COMMUNITY INC.

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TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
TRINITY RAVINE COMMUNITY INC.

**NOTICE OF MOTION  
(Stay Extension)**

The Applicant, Trinity Ravine Inc. (the “**Applicant**”) will make a Motion to a Judge presiding over the Commercial List on Monday, July 18, 2022 at 9:30 a.m., or as soon after that time as the Motion can be heard.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard

- In writing under subrule 37.12.1(1) because it is
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference.

at the following location

<https://millerthomson.zoom.us/j/89251544343?pwd=STdWTVhCeDFpK01XM3dzUThkOVI4dz09>

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### THE MOTION IS FOR

- (a) an Order substantially in the form of the draft Order attached hereto as Schedule “A” (the “**Stay Extension Order**”), among other things:
  - (i) abridging the time for and validating service of this notice of motion and motion record so that this motion is properly returnable today and dispensing with further service and confirmation hereof;
  - (ii) extending the current stay of proceedings in favour of the Applicant up to and including August 31, 2022; and
  - (iii) approving the second report of the Monitor dated July 15, 2022, to be filed (the “**Second Report**”) and the activities and conduct described therein.
- (b) Such further and other Relief as to this Honourable Court may deem just.

### THE GROUNDS FOR THE MOTION ARE

- (c) The Applicant is the developer of a real estate development project known as Trinity Ravine Community (the “**Project**”) located at the real property municipally known as 1256 Markham Road, Scarborough, Ontario (the “**Development Land**”).
- (d) On February 24, 2022, due to the skyrocketing costs of construction and the delays and uncertainty caused by the Covid-19 pandemic, the Applicant sought and obtained creditor protection and other ancillary relief pursuant to an order granted

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by this Court (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”).

- (e) Pursuant to the Initial Order, *inter alia*, the Court (i) declared that the Applicant is a company to which the CCAA applies; (ii) authorized the Applicant to remain in possession and control of its assets, undertaking and properties (the “**Property**”) and continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”); (iii) ordered a stay of all proceedings and remedies in respect of the Applicant or affecting its business or property for an initial period of ten (10) days up to and including March 5, 2022 (the “**Stay**”); (iv) appointed Deloitte Restructuring Inc. as monitor of the Applicant in these CCAA proceedings (in such capacity, the “**Monitor**”); and (v) granted an administration charge on the Property as security for the payment of the professional fees and disbursements of the Monitor, counsel to the Monitor and counsel to the Applicant.
- (f) On March 4, 2022, the Court issued Orders, among other things:
  - (i) extending the Stay in favour of the Applicant up to and including July 22, 2022 (the “**Current Stay Period**”); and
  - (ii) approving a sale and investment solicitation process in respect of the Property and the Business (the “**SISP Order**”).
- (g) During the Current Stay Period, the Monitor, with the assistance of the Applicant, has engaged in a sales and investment solicitation process (“**SISP**”) in accordance with the SISP Order.

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- (h) The SISP Order authorized the Monitor to exercise its discretion to amend the SISP including, in particular, extending the timelines. As a result of a number of extensions and other factors, the SISP is not yet complete insofar as the Applicant has not yet completed a binding agreement with a prospective purchaser.
- (i) The Applicant continues to negotiate with interested parties toward a binding agreement.
- (j) The Stay Extension Order will enable the Monitor and the Applicant to complete their review of the Final Bids (as defined in the SISP Order) in order to consider the selection of a Winning Bid (as defined in the SISP Order), if any, and complete definitive documentation.
- (k) The Applicant has acted and continues to act in good faith and with due diligence.
- (l) The Stay Extension Order is in the best interest of all creditors and other stakeholders in this proceeding.
- (m) The Monitor supports the Stay Extension Order.
- (n) The provisions of the CCAA, including section 11.02.
- (o) Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16, 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
- (p) Such further and other grounds as the lawyers may advise.

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**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

- (a) The Affidavit of Jeremy Anderson sworn July 14, 2022.
- (b) The Second Report of the Monitor, to be filed.
- (c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

July 14, 2022

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# **SCHEDULE “A”**

Court File No.: CV-22-00677236-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST**

THE HONOURABLE	)	MONDAY THE 18TH
	)	
	)	
JUSTICE KIMMEL	)	DAY OF JULY, 2022

B E T W E E N:

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
 TRINITY RAVINE COMMUNITY INC.

**ORDER**

THIS MOTION, made by the Applicant, Trinity Ravine Community Inc. ("**Trinity Ravine**" or the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by videoconference.

ON READING the Initial Order of this Court dated February 23, 2022 granted within these proceedings (the "**Initial Order**"), the amended and restated initial order dated March 4, 2022 (the "**Amended and Restated Initial Order**"), the affidavit of Jeremy Anderson sworn July 14, 2022, the second report (the "**Second Report**") of Deloitte Restructuring (in such capacity, the "**Monitor**") dated July 15, 2022, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, and the other counsel listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the affidavit of service of Monica Faheim sworn July 14, 2022,

**SERVICE**

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

## **EXTENSION OF STAY OF PROCEEDINGS**

2. THIS COURT ORDERS that the Stay Period (as defined in the Amended and Restated Initial Order) provided for in the Amended and Restated Initial Order is hereby extended until and including August 31, 2022.

## **MONITOR'S REPORT AND ACTIVITIES APPROVAL**

3. THIS COURT ORDERS that the Second Report and the activities and conduct of the Monitor described therein are hereby approved.

## **GENERAL**

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

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,  
c.C-36 AS AMENDED

Court File No.: CV-22-00677236-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TRINITY  
RAVINE COMMUNITY INC

**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**ORDER**

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF TRINITY RAVINE COMMUNITY INC.

Court File No.: CV-22-00677236-00CL

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

Proceeding commenced at TORONTO

**NOTICE OF MOTION**

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TAB 2



Court File No.: CV-22-00677236-00CL

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

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**AFFIDAVIT OF JEREMY ANDERSON  
(sworn July 14, 2022)**

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Community Inc.

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Court File No.: CV-22-00677236-00CL

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

IN THE MATTER OF THE *COMPANIES' CREDITORS  
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AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**AFFIDAVIT OF JEREMY ANDERSON  
(sworn July 14, 2022)**

**I, JEREMY ANDERSON**, of the City of Toronto in the Province of Ontario, **MAKE  
OATH AND SAY AS FOLLOWS:**

1. I am the Secretary of the Applicant, Trinity Ravine Community Inc. ("**Trinity Ravine**" or the "**Applicant**"), and as such, I have personal knowledge of the matters to which I herein depose. Where the source of my information or belief is other than my own personal knowledge, I have identified the source and the basis for my information and believe it to be true. All references to currency in this Affidavit are references to Canadian dollars, unless otherwise indicated.
2. Capitalized terms are as defined in my Affidavit sworn February 22, 2022 (the "**First Affidavit**") or my Affidavit sworn February 28, 2022 (the "**Second Affidavit**") unless otherwise defined herein. Copies of the First Affidavit and Second Affidavit (each without exhibits) are attached hereto as **Exhibits "A"** and "**B"**, respectively.

## I. OVERVIEW OF MOTION

### A. Background

3. The Applicant, Trinity Ravine, is the developer of a real estate development project known as Trinity Ravine Community (the “**Project**”) located at the real property municipally known as 1256 Markham Road, Scarborough, Ontario (the “**Development Land**”).
4. On February 24, 2022, the Applicant sought and obtained creditor protection and other ancillary relief pursuant to an order granted by this Court (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”, and such proceedings, the “**CCAA Proceedings**”). A copy of the Initial Order (together with the Endorsement of Justice Penny dated February 23, 2022) is attached hereto as **Exhibit “C”**.
5. Pursuant to the Initial Order, *inter alia*, the Court: (a) declared that the Applicant is a company to which the CCAA applies; (b) authorized the Applicant to remain in possession and control of its assets, undertaking and properties (the “**Property**”) and continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”); (c) ordered a stay of all proceedings and remedies in respect of the Applicant or affecting its business or property (the “**Stay**”) for an initial period of ten (10) days up to and including March 5, 2022 (the “**Stay Period**”); (e) appointed Deloitte Restructuring Inc. as monitor of the Applicant in these CCAA proceedings (in such capacity, the “**Monitor**”); and (f) granted an administration charge on the Property as security for the payment of the professional fees and disbursements of the Monitor, counsel to the Monitor and counsel to the Applicant.

6. On March 4, 2022, the Court issued Orders: (i) amending and restating the Initial Order (the “**Amended & Restated Order**”), and (ii) approving a sale and investment solicitation process in respect of the Property and the Business (the “**SISP Order**”). Copies of the Amended & Restated Order and SISP Order are attached hereto as **Exhibits “D”** and **“E”**, respectively.

**B. Overview of the Motion**

7. As more particularly described below, since the date of the Amended & Restated Order, the Monitor, with the assistance of the Applicant, has engaged in a sales and investment solicitation process (“**SISP**”) in accordance with the SISP Order.
8. The SISP Order provided for, among other things, the Monitor to exercise its discretion to amend the SISP including, in particular, extending the timelines. As a result of a number of extensions and other factors, the SISP is not yet complete insofar as the Applicant has not entered into a binding agreement with a prospective purchaser.
9. The Applicant continues to work toward a solution, and I am confident that this is achievable with additional time. Accordingly, the Applicant brings this motion for an Order substantially in the form of the draft order attached at Schedule “A” to the Notice of Motion, *inter alia*:
  - (a) extending the Stay Period to August 31, 2022; and
  - (b) approving the Second Report of the Monitor, to be filed, and the activities and conduct described therein.

10. I believe that the relief requested is in the best interests of the Applicant and its creditors and other stakeholders, and that it would be fair, reasonable and appropriate for the Court to grant the relief sought.

## **II. STATUS OF THE SISP**

11. Unless defined herein, all capitalized terms in this section of this Affidavit have the meaning prescribed to them in the SISP Order and the SISP.

### **A. Current Status of the SISP**

12. As set out below, no Qualified Final Bid has yet been selected as the Winning Bid. As such, I believe that it would be premature for me to disclose certain information regarding the progress of the SISP thus far.

### **B. Appointment of Broker**

13. Following issuance of the SISP Order on March 4, 2022, the Monitor commenced the implementation of the SISP. In particular, on March 4, 2022 the Monitor contacted a number of licensed real estate agents and brokers (each a “**Prospective Broker**”) and invited such Prospective Brokers to submit a proposal to assist the Monitor and Applicant with the sale of the Real Property (each such submission defined as a “**Sale Proposal**”).
14. On March 18, 2022 the Monitor notified Avison Young Commercial Real Estate Services, LP (the “**Broker**”) that it had been selected to act as broker in connection with the SISP. The parties negotiated definitive documentation in respect of the appointment, and on April 1, 2022, the Applicant and the Broker entered a Broker Agreement.

**C. Notice of SISP**

15. Following execution of the Broker Agreement and between April 6, 2022 and May 2, 2022, the Broker (with assistance from the Monitor and the Applicant) prepared a list of Known Potential Bidders, published notice of the SISP on its website and MLS, delivered a Teaser Letter and confidentiality agreements.
16. The Teaser Letter and other marketing materials established May 6, 2022 as the deadline (the “**LOI Deadline**”) for delivery of non-binding letters of intent (each, an “**LOI**”), as contemplated in the SISP Order.

**D. Final Bid Deadline**

17. Multiple parties submitted LOIs. The Monitor (in consultation with the Applicant) reviewed and assessed the LOIs and selected multiple Qualified Bidders to submit Final Bids. Qualified Bidders were advised that the Final Bid Deadline was June 17, 2022. The SISP provided a Final Agreement Deadline of June 24, 2022.
18. As negotiations were ongoing, the Monitor (in consultation with the Applicant) agreed to extensions of the Final Bid Deadline and Final Agreement Deadline in order to allow for the continued discussions. As a result, the Monitor received bids from Qualified Bidders up to and including July 11, 2022.

**E. Review of Final Bids**

19. Given that the Final Bid Deadline was extended multiple times as a result of continued negotiations, on the request of a Qualified Bidder and given that the Canada-wide Rogers outage caused communication issues and delays, additional time is now required by the

Monitor and the Applicant in order to select the Final Bid. As further described below, the extension of the Stay Period is necessary to complete the SISP.

**III. REQUEST FOR EXTENSION ORDER**

**A. Extension of Stay of Proceedings**

- 20. The current Stay Period under the Initial Order expires on July 22, 2022. The Applicant seeks to an extension of the Stay to August 31, 2022. The requested extension will enable the Monitor and the Applicant to complete their review of the Final Bids, in order to consider the selection of a Winning Bid, if any, and complete definitive documentation.
- 21. The Applicant has acted and continues to act in good faith and with due diligence in these proceedings, and the extension to the Stay Period is in the best interest of all creditors and other stakeholders in this proceeding.
- 22. I understand that the Monitor supports the proposed extension to the Stay Period.

**IV. CONCLUSION**

- 23. I swear this affidavit in support of a Motion for an Order extending Stay Period to August 31, 2022, and for no other or improper purpose.

SWORN before me at with the deponent in the City of Toronto, in the Province of Ontario, this 14<sup>th</sup> day of July 2022, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:  
*Monica Faheim*  
A027328446B742A...

Commissioner for Taking Affidavits  
**MONICA FAHEIM**

DocuSigned by:  
*Jeremy Anderson*

70645C98ED045238  
**JEREMY ANDERSON**



This is Exhibit "A" referred to in the Affidavit of JEREMY ANDERSON sworn by JEREMY ANDERSON of the City of Toronto, in the Province of Ontario, before me at the City of Mississauga, in the Province of Ontario, on July 14, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

*Monica Faheim*

A927328446B742A...

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*Commissioner for Taking Affidavits (or as may be)*

**MONICA FAHEIM**

Court File No.: CV-22-00677236-00CL

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

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**AFFIDAVIT OF JEREMY ANDERSON  
(sworn February 22, 2022)**

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Lawyers for the Applicant, Trinity Ravine  
Community Inc.

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Court File No.: CV-22-00677236-00CL

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

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**AFFIDAVIT OF JEREMY ANDERSON  
(sworn February 22, 2022)**

**I, JEREMY ANDERSON**, of the City of Toronto in the Province of Ontario, **MAKE  
OATH AND SAY AS FOLLOWS:**

1. I am the Secretary of the Applicant, Trinity Ravine Community Inc. ("**Trinity Ravine**" or the "**Applicant**"), and as such, I have personal knowledge of the matters to which I herein depose. Where the source of my information or belief is other than my own personal knowledge, I have identified the source and the basis for my information and believe it to be true. All references to currency in this Affidavit are references to Canadian dollars, unless otherwise indicated.

**A. Background & Overview of the Proposed Proceeding**

2. The Applicant, Trinity Ravine, is the developer of a real estate development project known as Trinity Ravine Community (the "**Project**") located at the real property municipally known as 1256 Markham Road, Scarborough, Ontario (the "**Development Land**"). However, Trinity Ravine is unlike most real estate developers, in that it is not developing

the Project as a “for-profit” condominium. Rather, the Project is intended to be a place of community available to senior citizen residents and is designed to offer amenities and facilities to seniors. Further, the Project utilizes a life lease structure, pursuant to which Purchasers (as defined below) have paid deposits for the right to occupy units in the Project (“Suites”) upon completion.

3. The Project initially contemplated a Completion Date (as defined below) of March 31, 2019. However, in accordance with the Life Lease Agreements (as defined below) the Completion Date was extended to March 31, 2022.
4. The Project will not be completed by the Completion Date. In fact, although substantially all required permits are in place, construction has not yet commenced. Due to factors which include skyrocketing construction costs and the devastating impact of the COVID-19 pandemic, the Project’s financial model is no longer viable.
5. As further particularized below, an unusual feature of the Project is the use of a life lease model instead of a conventional sale of a condominium unit. Through a life-lease structure, an resident purchases a life lease interest in the Project, at market value.
6. However, the pricing at which life lease interests in Suites were sold to Purchasers was too low for current market conditions. The Applicant had intended to secure conventional construction financing in order to complete the Project once applicable permits were in place. When the development plan for the Project was conceived, the expected aggregate proceeds from sales of the Suites was sufficient to repay the projected construction financing required. However, due primarily to the massive increase in construction costs

over the past few years, sale proceeds from the Suites will not be sufficient to cover the cost of completion.

7. Due to the delays and uncertainty, a number of Purchasers (as defined below) have purported to terminate their Life Lease Agreements (as defined below) and have demanded return of their Deposits (as defined below). However, a substantial amount of the funds received in respect of the Deposits were spent on soft development costs such as commissions, broker fees, site plan approvals, architect fees and reporting, leaving the Applicant with minimal cash reserves and negative monthly cash flow. Consequently, the Applicant is unable to refund the Deposits at this time.

**B. CCAA Protection & Potential Solution**

8. Given the current economic uncertainties it is not possible to forecast with certainty the outcome of any process for the sale of the Development Land. However, based on market appraisals it appears that there is considerable equity in the Development Land and I am optimistic that if the Project is definitively terminated and the Development Land is sold, the proceeds will be sufficient to refund all Deposits and pay all other creditors.
9. I also believe that the Project can still be viable if it can be “re-priced” to reflect the current market, in which case the Development Land need not be sold. Over the past few months, the Applicant’s management team has been actively exploring potential solutions, and has engaged in discussions with Purchasers, potential financiers, secured creditors and other stakeholders in that regard. Although some Purchasers have indicated that they are not willing to remain in the Project, there are also those who may be amenable to remaining in

the Project at a higher purchase price if they have sufficient assurance that the Project will be completed on a reasonable timeline.

10. In either case, given the Applicant's dwindling cash reserves as well as mounting pressure from Purchasers and other creditors, an orderly process is required. As such, the Applicant seeks to conduct a "dual track" sale and investment solicitation process (the "SISP") under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the "CCAA"), with a view toward either: (a) securing sufficient financing and Purchaser support to complete the Project in a way that provides sufficient liquidity to deal with Purchasers who wish to terminate their Life Lease Agreements, or (b) selling the Development Land and distributing the proceeds to Purchasers and other creditors. If an Order is issued granting the Applicant protection under the CCAA (an "**Initial Order**"), the Applicant intends to seek Court approval of the SISP (among other things) within 10 days thereafter.

## II. RELIEF SOUGHT

### A. Relief Sought

11. For the reasons set out in this Affidavit, I believe that the Applicant ought to be granted protection under the CCAA. Accordingly, this Affidavit is sworn in support of an application (the "**Application**") for an Initial Order substantially in the form attached at Tab 3 of the Application Record herein, granting the Applicant protection from its creditors and certain ancillary relief including, among other things:
  - (a) Abridging the time for service of the Notice of Application and dispensing with service on any person other than those served;

- (b) Declaring that the Applicant is a party to which the CCAA applies;
  - (c) Appointing Deloitte Restructuring Inc. (“**Deloitte**”) as CCAA Monitor of the Applicant in these proceedings (the “**Proposed Monitor**” and, if appointed, the “**Monitor**”);
  - (d) Staying all proceedings and remedies taken or that might be taken in respect of the Applicant or any of its property, except as otherwise set forth in the Initial Order or as otherwise permitted by law;
  - (e) Authorizing the Applicant to carry on business in a manner consistent with the preservation of its property and the restructuring proposed and to make certain payments in connection with its business and the proceedings taken herein;
  - (f) Granting the Administration Charge (as defined below); and
  - (g) Authorizing the Applicant to file with the Court a plan of arrangement or compromise to its creditors (a “**Plan**”).
12. If CCAA protection is granted to the Applicant, it intends to use the CCAA proceeding and Court protection to:
- (a) Conduct a SISP, with a view toward either:
    - (i) Securing sufficient financing and Purchaser support for the Project to be completed while providing sufficient liquidity to deal with Purchasers who wish to terminate their purchase agreements; or



- (ii) Terminating the Project, selling the Development Land and distributing the proceeds to the Applicant's creditors; and
  - (b) Develop a Plan (or other mechanism) to implement the above.
- 13. The Applicant has commenced these CCAA proceedings with the ultimate goal of proposing a Plan that protects the interests of Purchasers, creditors and other stakeholders, with a view to emerging from CCAA protection in a stronger form that preserves its charitable purpose (*i.e.*, to provide a living community for senior citizens) and enterprise value. To achieve this objective, the Applicant requires, among other things, immediate protection from creditor enforcement and other proceedings, as well as the necessary breathing room to allow it to engage in dialogue with its creditors and other stakeholders.

### III. CORPORATE STRUCTURE AND BUSINESS

#### A. The Applicant

- 14. The Applicant was incorporated under the name "Global Kingdom Ministries Inc." on September 4, 2007 under Part II of the *Canada Corporations Act* and was continued under the *Canada Not-for-profit Corporations Act* (the "**NFP Act**") effective June 24, 2014. The Applicant's name was changed to "Trinity Ravine Community Inc." effective October 21, 2020. Attached hereto as **Exhibit "A"** is a copy of a Corporate Profile Report dated February 14, 2022 in respect of the Applicant.
- 15. The Applicant is affiliated with Global Kingdom Ministries Church Inc. (the "**Church**"), a member church of the Pentecostal Assemblies of Canada, a fellowship of over 1,100 Canadian churches.

16. As set out above, I am the Secretary of the Applicant. Attached hereto as **Exhibit “B”** is an organizational chart in respect of the Applicant (the “**Organizational Chart**”).
17. The Applicant is a registered charitable organization whose sole member is the Church. Attached hereto as **Exhibit “C”** is a copy of a Corporate Profile Report dated January 10, 2022 in respect of the Church. As more particularly described at paragraphs 31 and 32 below, on October 1, 2020, Trinity Ravine transferred the net assets of its ministry operations to the Church, whose membership is comprised of approximately 300 congregants.

#### **B. Operations of the Applicant**

18. The Applicant conducts its activities from the premises located in the Church Facilities (as defined below) at 1250 Markham Road, Scarborough, Ontario, M1H 2Y9 (the “**Head Office**”), which the Applicant leases from the Church at an annual rent of approximately \$36,000.

#### **C. The Applicant’s Board of Directors**

19. The Applicant’s Board of Directors (the “**Board**”) includes nine (9) individuals, as particularized in the Board List attached hereto as **Exhibit “D”**.
20. A number of Board members have purchased life leases from the Applicant. In order to avoid conflicts of interest, the Board has established a Special Committee of the Board, composed of five (5) members of the Board who did not purchase life leases, for decision-making purposes through the restructuring process.

21. The Applicant maintains directors and officers liability insurance, which I believe provides sufficient coverage.

**D. Employees**

22. Through the end of 2019, the Applicant had approximately five (5) full time employees. However, as a result of the Project stalling, the number of employees has since been reduced to two.

**E. Payroll**

23. The Applicant's payroll is processed bi-weekly by Rise People, a Human Resources management and payroll software company. All source deductions are current.

**F. Banking & Cash Management**

24. The Applicant maintains two bank accounts through which it deals with its cash management, collections, and disbursements. This allows the Applicant to facilitate cash forecasting and reporting, and monitor collection and disbursement of funds.
25. More particularly, the Applicant has bank accounts (the "**Applicant Accounts**") with TD Canada Trust and Royal Bank of Canada.

**IV. THE DEVELOPMENT PROJECT**

**A. Trinity Ravine Community**

26. The Applicant is developing the Trinity Ravine Community, a two tower, 605-unit Project at the Development Land (the "**Trinity Ravine Community**"), which is intended to serve as a senior citizens community. The Project will feature a 28 and 30-storey tower connected

by a four-storey central podium. Attached hereto as **Exhibit “E”** is a copy of a Parcel Register dated February 14, 2022 in respect of the Development Land.

27. The Applicant’s primary asset (*ie*, the Development Land) is a “shovel ready”, permitted land parcel at the municipal address of 1256 Markham Road, Scarborough, Ontario. The appraised value for the Development Land as a high-density residential development property is approximately \$32 million.
28. Trinity Ravine Community is intended to enable residents to “age in place”. In addition to typical condominium-style amenities including a fitness centre, concierge and games room, the project will also have a 230-seat, bistro-inspired dining room and an on-site Wellness Centre staffed with nurses, doctors and physiotherapists.

#### **B. Acquisition of Development Land**

29. The Applicant purchased an approximately 6.7 acre parcel located at 1250 Markham Road, Scarborough (the “**Original Land**”) that included the Development Land in 2005, and completed construction of its new facility (the “**Church Facilities**”) in 2008. In addition to the approximately 1,500-seat place of worship and sanctuary itself, the Church Facilities include a community centre, gymnasium, offices and other facilities.
30. In 2013, the City of Toronto contacted the Applicant regarding the possibility of developing a portion of the Original Land for residential purposes, and advised that it was prepared to amend the City’s Official Plan by re-designating a portion of the Original Land to facilitate same. As the Original Land was much larger than required for operation of the Church Facilities, the Applicant began considering and developing a plan in that regard.

### C. Severance of Development Land

31. Pursuant to registration of the required Reference Plan on June 4, 2020 and a Provisional Consent, which became final and binding June 5, 2020, the Original Land was severed into two parcels: (1) the Development Land, which includes approximately 2.2 acres located at the northern end, and (2) the remaining 4.5 acres, upon which the Church Facilities are located (the “**Church Land**”). Attached hereto as **Exhibit “F”** is a copy of a Parcel Register February 14, 2022 in respect of the Church Land.
32. Pursuant to a transaction between the Applicant and the Church that occurred on or about October 1, 2020, the Church Land was transferred from the Applicant to the Church.

### D. Life Lease Structures Generally

33. A unique feature of the Project is the use of life leases, through which a resident purchases a life lease interest in the Project, at market value.<sup>1</sup> Similar to a conventional condominium structure, in a life lease structure the “buyer” pays a lump-sum purchase price for exclusive use of the suite as well as use of the common areas and facilities, and then continues to pay ongoing costs such as monthly maintenance fees and property taxes.
34. However, life lease structures are not governed by the *Condominium Act* (Ontario). Unlike in a condominium structure, in life lease housing the “buyer” does not own the property. Rather, the life lease interest gives the holder the right to occupy a unit, rather than own the unit itself. The “life lease sponsor” owns the property.

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<sup>1</sup> Life leases are usually priced lower than similarly sized condominiums in the area, for reasons that may include a lack of availability of conventional mortgages and the exemption from land transfer taxes.

35. When a life lease holder passes away, certain rights which accompany that life lease interest can pass to an heir, but not the right to occupy the unit. An heir can benefit from the proceeds of the sale of the life lease, but does not automatically have a right to reside in the unit. While an heir may be able to apply to move into the life lease unit, the decision is up to the life lease sponsor.
36. The benefit of this model is that projects and residency can be controlled by a non-profit or charitable organization (such as the Church) acting as life lease sponsor, to ensure it is maintained as a seniors community.

#### **E. Trinity Ravine Life Lease Structure**

37. As noted above, the Trinity Ravine Community Project was conceived as a seniors community, with amenities intended to allow residents to “age in place”, and as such the life lease structure is ideal.
38. Between November 21, 2015 and November 6, 2019, the Applicant sold life leases to a total number of 439 purchasers (collectively, the “**Purchasers**”) pursuant to Life Lease Occupancy Agreements (the “**Life Lease Agreements**”). Attached hereto as **Exhibit “G”** is a copy of the form of Life Lease Agreement.
39. There are a total of 3 iterations of the Life Lease Agreements, as follows:
  - (a) An iteration that was used in circumstances where the Purchaser was represented by a real estate agent, a copy of which is attached hereto as **Exhibit “H”**;
  - (b) An iteration where the Purchaser was self-represented, a copy of which is attached hereto as **Exhibit “I”**; and

- (c) An iteration that did not include any distinguishing language between a Purchaser represented by a real estate and a self-represented Purchaser. This is the most common form of Life Lease Agreement that has been executed, and is previously attached hereto as Exhibit "G".
40. Pursuant to the majority of the Life Lease Agreements, the Purchasers agreed to the following payments (collectively, the "**Total Cost**") in respect of their Suites, which represents a 20% deposit and 80% payable on the completion of the Project:
- (a) An amount of \$5,000.00 paid by guaranteed funds (bank draft, certified cheque or money order) on the date of execution of the Life Lease Agreement;
  - (b) Five percent (5%) of the Total Cost, within thirty (30) days of execution of the Life Lease Agreement;
  - (c) Five percent (5%) of the Total Cost within one hundred twenty (120) days of execution of the Life Lease Agreement;
  - (d) Five percent (5%) of the Total Cost, within three hundred seventy (370) days of execution of the Life Lease Agreement;
  - (e) Five percent (5%) of the Total Cost, within five hundred forty (540) days of execution of the Life Lease Agreement, or upon occupancy; and
  - (f) The balance of the Total Cost (*ie*, the remaining eighty percent (80%)) upon completion and occupancy.

41. In accordance with the Life Lease Agreements, the payments described at subparagraphs (a) through (e) above are included in the meaning of the term “**Deposit**”. Full details in respect of the Deposits received by the Applicant are set out below.
42. The Life Lease Agreement establishes the “Completion Date” (*i.e.*, the date upon which interior work in the Suite has been completed to the extent necessary for occupation and safe access to the Suite is available) (the “**Completion Date**”) as March 31, 2019, subject to extension for up to three (3) years on notice to the Purchasers. Notice of the extension of the Completion Date to March 31, 2022 was delivered to the Purchasers.

## V. FINANCIAL STATUS

### A. 2021 Unaudited Financial Statements

43. The Applicant’s most recent annual unaudited financial statements are for the period ended September 30, 2021 (the “**2021 Financial Statements**”). Attached hereto as **Exhibit “J”** is a copy of the 2021 Financial Statements
44. The 2021 Financial Statements indicate that as of September 30, 2021, the Applicant had assets of \$25,766,228.49 and liabilities of \$29,115,052.79, details of which are set out below.

#### (i) Assets

45. According to the 2021 Financial Statements, as at September 30, 2021, the Applicant’s assets were composed of the following:
- (a) Cash and investments in the amount of \$1,621,337.61
  - (b) Fixed assets in the amount of \$24,026,210.69; and



(c) Other current assets in the amount of \$118,680.19.

46. The Applicant's fixed assets are composed of the 2.171 acre Development Land parcel upon which Trinity Ravine Community is intended to be built. The Development Land currently houses a paved parking lot adjacent to the Church, which is used by congregants of the Church on Sundays and is generally vacant the rest of the week

**(ii) Liabilities**

47. According to the 2021 Financial Statements, as at September 30, 2021, the Applicant's liabilities were composed of the following:

- (a) Accounts payable in the amount of \$608,015.18;
- (b) Accrued liabilities in the amount of \$5,308,850.45; and
- (c) Long term liabilities in the amount of \$23,198,187.16.

**B. Secured Indebtedness**

48. The Applicant's secured creditors include Limestone Capital Inc. ("**Limestone**") and Nahid Corp. ("**Nahid**"). Limestone and Nahid have both indicated that they support the Applicant's efforts to restructure and request for the Initial Order.

**(i) Real Property Security**

49. The Parcel Register in respect of the Development Land (previously attached as Exhibit "E" hereto) indicates the following:

- (a) Charge registered June 16, 2021 in favour of Limestone in the maximum principal amount of \$3,000,000 (the "**Limestone Charge**"). Attached as **Exhibit "K"** hereto is a copy of the Limestone Charge, pursuant to which interest accrues

at a rate of 13% *per annum* and is paid monthly. The Applicant is current on interest payments.

- (b) Charge registered October 19, 2021 in favour of Nahid in the maximum principal amount of \$4,700,000 (the “**Nahid Charge**”). Attached as **Exhibit “L”** hereto are copies of the Promissory Note and Nahid Charge (the “**Nahid Loan & Security Documents**”), pursuant to which interest accrues at a rate of 1.5% per month and is capitalized into the loan. As at the date hereof, approximately \$4,500,000 is owing under the Nahid Loan & Security Documents.

**(ii) Personal Property Security**

50. Royal Bank of Canada (“**RBC**”) and Limestone have registered security interests under the *Personal Property Security Act* (Ontario) (the “**PPSA**”). Attached hereto as **Exhibit “M”** is a copy of a Personal Property Security Registration System Enquiry Response Certificate current to February 13, 2022 in respect of the Applicant, indicating the following PPSA registrations:

- (a) RBC amended an existing registration against the debtor name “Scarboro Gospel Temple” (among others) on January 15, 2010 to add the name “Global Kingdom Ministries Inc.” as an additional debtor in respect of all classes of collateral except “Consumer Goods”. Following several renewals and other amendments, on March 16, 2021 the registration was amended to change the name of the one debtor to “Trinity Ravine Community Inc.”. On August 27, 2021, RBC further amended its registration to, among other things, amend and restate the collateral

description to include cash collateral held by RBC in respect of three (3) letters of credit.

- (b) In addition to the above-noted registrations in respect of Global Kingdom Ministries Inc., as amended from time to time, RBC also registered separately against the name “Global Kingdom Ministries Inc.” on April 10, 2019 in respect of the collateral classes “Accounts” and “Other”. On June 15, 2021 the registration was amended to change the name of the debtor to “Trinity Ravine Community Inc.”.
- (c) Limestone registered against the name “Global Kingdom Ministries Inc.” on June 11, 2021 for a period of 5 years in respect of all classes of collateral except “Consumer Goods” and “Motor Vehicle”.

51. The Applicant’s indebtedness to Limestone is described at paragraph 49(a) above. The Applicant’s indebtedness to RBC arose from the issuance of three (3) letters of credit issued to the City of Toronto, one on October 17, 2018 and two on October 18, 2018 (collectively, the “**Letters of Credit**”). The Letters of Credit secured landscape and finishing work to be completed with respect to the construction of the church building on the Church Land. It was anticipated that the work would be completed at the same time as that type of work would be carried out for the Applicant’s development to avoid its destruction during construction and for ease of construction. Those Letters of Credit were due to expire one (1) year after their respective dates of issuance, and the City of Toronto realized on same. It is understood that the City would return those amounts to the Applicant once it replaces those Letters of Credit. Copies of the Letter of Credits are attached as **Exhibit “N”**.

**C. Unsecured Indebtedness**

52. As at February 16, 2022, the Applicant's unsecured indebtedness totalled \$24,744,893.70.

**D. Key Contracts**

53. The Applicant's key contracts are set out below:

(a) Maple Reinders. Pursuant to a Construction Management Contract – for Services and Construction dated December 4, 2014 (the “**Maple Contract**”) between the Applicant and Maple Reinders Constructors Ltd. (“**Maple**”), a construction services provider, Maple agreed to act as construction manager for Phase I of the Project, which included completion of the first of the two communities together with 2 level of underground parking totalling 224 parking spots, at a total approximate construction budget of \$53,000,000. The Maple Contract also contemplated construction of a separate elevated parking structure for 500 cars at an approximate construction budget of \$11,000,000. The Maple Contract provides that Maple's compensation is comprised of the sum of 2.75% of: (i) the Construction Cost Estimate, and (ii) the Cost of the Work (as such terms are defined in the Maple Contract). A copy of the Maple Contract is attached hereto as **Exhibit “O”**.

(b) KJK Ventures. Pursuant to a Compensation Agreement dated October 2020 (the “**KJK Agreement**”) with KJK Ventures Inc. (“**KJK Ventures**”), the Applicant agreed to, among other things, pay a monthly fee of \$35,000 plus HST to KJK Ventures for development management and related services. Kern Kalideen, the CEO of the Applicant, is the officer and director of KJK Ventures, which

provides real estate development services to religious and other charitable institutions. A copy of the KJK Agreement is attached hereto as **Exhibit “P”**. As at the date hereof, there is a total amount of \$285,850.00 owed to KJK Ventures under the KJK Agreement, for which KJK has agreed to accept reduced payments in the amount of \$10,000 plus HST for ongoing monthly services.

- (c) Reinders & Rieder Ltd. Pursuant to an Agreement dated March 31, 2015 (the “**Reinders Agreement**”) with Reinders & Rieder Ltd. (“**Reinders**”), the Applicant agreed to, among other things, pay an amount equal to 2.65% of the Construction Costs (as defined in the Reinders Agreement) together with certain hourly rates and expenses to Reinders for architectural services. A copy of the Reinders Agreement is attached hereto as **Exhibit “Q”**. Work under the contract has ceased, but Reinders claims an amount of approximately \$423,140 is owing to it for architectural services rendered in 2020.
- (d) Cushman Wakefield. On November 12, 2021, the Applicant executed a commission agreement (the “**CW Agreement**”) with Cushman and Wakefield ULC (“**Cushman**”), pursuant to which the Applicant agreed to pay the amount of \$528,000 to Cushman for the successful completion of a sale or joint venture agreement between the Applicant and Nahid or its subsidiaries or affiliates on or before March 31, 2022. A copy of the Cushman Agreement is attached hereto as **Exhibit “R”**.
- (e) Konica Equipment. Pursuant to two Premier Lease Agreements between the Applicant and Konica Minolta Business Solutions (Canada) Ltd. (“**Konica**”)

each dated September 20, 2019 (the “**Konica Agreements**”), the Applicant leased certain photocopiers and other equipment from Konica, and agreed to make 22 quarterly payments in the aggregate amount of \$6,770.63. Copies of the Konica Agreements are attached hereto as **Exhibit “S”**. An amount of approximately \$98,939.00 plus HST remains outstanding through the balance of the terms of the Konica Agreements.

## **VI. CAUSES OF CURRENT FINANCIAL CHALLENGES.**

### **A. Challenges**

54. Project costs have significantly escalated since the units were sold in 2016, making the current economics of the project unattainable. The pace of cost escalation has increased significantly since the emergence of the COVID-19 pandemic. Based on my review of statistics published by Statistics Canada, residential building construction prices in Toronto increased by a staggering 24.4% between the third quarters of 2020 and 2021.<sup>2</sup>
55. In addition, the emergence of the COVID-19 pandemic and the consequent shutdown of much of Canada’s consumer economy has created additional challenges to the Applicant’s business. As of the date of this Affidavit, the duration of the COVID-19 pandemic and the economic impact of the precautionary measures taken to combat its spread remain unknown.

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<sup>2</sup> See <https://www150.statcan.gc.ca/n1/daily-quotidien/211028/t001e-eng.htm>, retrieved January 26, 2022.

**B. Terminations & Refund Requests**

56. As noted above, the initial Completion Date specified in the Life Lease Agreements was March 31, 2019, which could be (and was) extended on notice to the Purchasers for up to three (3) years, to March 31, 2022.
57. When originally conceived, there was considerable enthusiasm for the Project. A total of 468 Purchasers secured Suites in the Project, for which Deposits in the aggregate amount of approximately \$27.6 million were paid to the Applicant.
58. Over the course of late 2019 to 2021, certain Purchasers requested that their Life Lease Agreements be terminated given that the Project was not completed by the initial Completion Date and requested a return of their Deposit paid. Over this period, the Applicant accepted the termination requests of 188 Purchasers (the “**Refunded Purchasers**”), for which Deposits (inclusive of interest) were returned to the Refunded Purchasers in the aggregate amount of \$12,229,521.49 as at January 26, 2022.
59. Accordingly, and in light of the Refunded Purchasers, there is currently a total of 280 Purchasers that remain in the Project (the “**Remaining Purchasers**”), with Deposits paid to the Applicant in the aggregate principal amount of \$16,119,649.96.
60. Of these 280 Remaining Purchasers, approximately 120 Remaining Purchasers have contacted the Applicant requesting the termination of their Life Lease Agreement and return of their Deposit. The Applicant has not formally accepted any of these additional termination and Deposit requests.

61. Unfortunately, in addition to processing the terminations and refunds requested by the Refunded Purchasers, the Applicant spent the Deposit monies on soft development costs such as commissions, broker fees, site plan approvals, architect fees and reporting, leaving minimal cash reserves. Consequently, the Applicant is unable to process further refund requests from the Remaining Purchasers.

## **VII. NEED FOR CCAA PROTECTION**

### **A. Eligibility**

62. The Applicant is insolvent insofar as it is unable to meet its obligations as they generally come due, and has ceased paying its current obligations in the ordinary course of business. In particular, a significant number of the Remaining Purchasers have purported to terminate their Life Lease Agreements and have demanded return of their Deposits. The Applicant is unable to refund the Deposits at this time.
63. As at the date hereof, the aggregate amount of the claims against the Applicant is more than \$31 million.
64. Based on the current cash availability and projected cash use, action needs to be taken to protect the interests of the Remaining Purchasers and other stakeholders.
65. The Applicant's liquidity position is deteriorating and with no sources of revenue, additional funding will need to be borrowed in order to support the Applicant while it restructures. The Applicant has the support of its secured creditors, Limestone and Nahid, and I believe that there is sufficient equity in the Development Land to either: (i) secure additional financing to complete the Project, or (ii) sell the Development Land and use the



proceeds of sale to refund the Deposits to the Remaining Purchasers, as well as repay other creditors.

66. Based on the 26-Week Cash Flow Forecast (as defined below), the Applicant estimates that it requires a commitment for additional funding in the range of \$750,000 to \$850,000 in order to ensure that it has sufficient resources to complete the SISP and CCAA process.

## **VIII. FUNDING OF THE CCAA PROCEEDINGS**

### **IX. PROPOSED INITIAL ORDER**

#### **A. Cash Flow Forecast**

67. The Applicant has worked with the Proposed Monitor to prepare a 13-week consolidated cash flow forecast for the Applicant for the period ending May 22, 2022 (the “**13-Week Cash Flow Forecast**”). Attached hereto as **Exhibit “T”** is a copy of the 13-Week Cash Flow Forecast. Based on my knowledge of the financial position of the Applicant and the assumptions set out in the 13-Week Cash Flow Forecast, I believe that it is fair and reasonable.
68. The 13-Week Cash Flow Forecast indicates a closing cash balance of approximately \$210,000 over the period due to a negative net cash flow of \$366,000.
69. The Applicant has worked with the Proposed Monitor to prepare a 26-week cash flow forecast for the Applicant for the period ending August 21, 2022 (the “**26-Week Cash Flow Forecast**”). Attached hereto as **Exhibit “U”** is a copy of the 26-Week Cash Flow Forecast. Based on my knowledge of the financial position of the Applicant and the assumptions set out in the 26-Week Cash Flow Forecast, I believe it is fair and reasonable.

70. The 26-Week Cash Flow Forecast indicates a requirement for the Applicant to obtain financing of at least \$538,000 to successfully complete a Plan. The Applicant does not require financing for the purposes of making the within application for CCAA protection. However, the Applicant does anticipate that it will require financing at a later date in order to attend to the steps proposed herein and in order to support it through the course of the CCAA proceedings. While not required at this particular juncture, the Applicant intends to secure financing and seek Court-approval for same at a later date, as further particularized below.

## **X. PROPOSED INITIAL ORDER**

71. The Applicant is seeking the Initial Order substantially in the form attached as Tab 3 to the Application Record.

### **A. The Stay of Proceedings in Favour of the Applicant**

72. The Initial Order contemplates a stay of all proceedings against the Applicant and its Property for an initial period of ten (10) days. As set out below, I anticipate that the Applicant will bring a motion during that period for an Order, among other things, extending the stay of proceedings.

### **B. Administration Charge**

73. The Applicant intends to seek an initial charge against the Property in favour of the Monitor and its counsel and the Applicant's counsel to an initial maximum aggregate amount of \$150,000 in order to secure the payment of fees and expenses incurred in connection with moving for the within relief sought and for the initial ten (10) day protection period leading

up to the first comeback hearing (the “**Administration Charge**”). In my view, the proposed Administration Charge is fair and reasonable in the circumstances.

74. The Administration Charge is proposed to rank as a first-priority charge, with the exception of ranking in subordinate all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, the “**Encumbrances**”) in favour of any persons that have not been served with notice of this Application.
75. I believe that the granting of the Administration Charge, which may be increased at a later date, will permit and enhance the preparation of a viable SISP.

#### **XI. INTENTION TO OBTAIN SECOND ORDER**

76. As referred to above, I anticipate that the Applicant will return to Court within the 10 day period following the Initial Order (should it be granted) to seek an Order granting an extension of the stay of proceedings, approval of the SISP, and approval of debtor-in-possession financing (“**DIP Facility**”), as well as certain other relief.
77. As noted above, while not necessary at this juncture, the Applicant will require financing through the course of the CCAA proceedings in order to permit the Applicant to continue to operate its business. The Applicant, with the assistance of its counsel and the Monitor, is taking steps to secure a potential DIP Facility for this purpose. At this time, the Applicant is anticipating it will secure a DIP Facility in the maximum amount of \$850,000, payable in monthly tranches, with interest thereon at a rate per annum equal to 12% or the TD Bank

Prime Rate plus 9.55%. The Applicant intends to provide the Court with a fulsome update on the DIP Facility and seek court-approval in this regard at the comeback hearing.

## **XII. THE PROPOSED MONITOR**

78. The Applicant proposes that Deloitte be appointed Monitor in this proceeding. Deloitte has consented to act as Monitor and its written consent is included at Tab 4 of the Application Record.

79. Deloitte is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act* (Canada), and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA.

## **XIII. CONCLUSION**

80. I believe that the Applicant ought to be granted protection under the CCAA. I am confident that granting the draft Initial Order is in the best interests of the Applicant as well as its employees, Purchasers, creditors, and other stakeholders. As set out above, I believe that given sufficient “breathing room” under the CCAA, the Applicant will be able to either (i) complete the Project for the benefit of the Remaining Purchasers who wish to move into their Suites in a way that provides sufficient liquidity to deal with Remaining Purchasers who wish to terminate their Life Lease Agreements, or (ii) sell the Development Land and distribute the proceeds to the Remaining Purchasers and other creditors.

81. Furthermore, I believe that even in a “worst case scenario” in which the Development Property is sold, a SISP under the CCAA will maximize proceeds on a more timely and

cost-effective basis than the available alternatives, and will provide for an orderly claims process and distribution process.

82. I swear this affidavit in support of an Application under the CCAA for an Initial Order in the form contained at Tab 3 of the Application Record, and for no other or improper purpose.

SWORN before me at the City of Toronto, in the Province of Ontario, this     day of February 2022.

DocuSigned by:  
*Monica Fakeim*  
A927328446B742A

\_\_\_\_\_  
Commissioner for Taking Affidavits

DocuSigned by:  
*Jeremy Anderson*

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\_\_\_\_\_  
**JEREMY ANDERSON**

This is Exhibit “B” referred to in the Affidavit of JEREMY ANDERSON sworn by JEREMY ANDERSON of the City of Toronto, in the Province of Ontario, before me at the City of Mississauga, in the Province of Ontario, on July 14, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Monica Faheim

A0279294469742A...

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*Commissioner for Taking Affidavits (or as may be)*

**MONICA FAHEIM**

Court File No.: CV-22-00677236-00CL

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

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**AFFIDAVIT OF JEREMY ANDERSON  
(sworn February 28, 2022)**

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Lawyers for the Applicant, Trinity Ravine  
Community Inc.

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Court File No.: CV-22-00677236-00CL

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

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**AFFIDAVIT OF JEREMY ANDERSON  
(sworn February 28, 2022)**

**I, JEREMY ANDERSON**, of the City of Toronto in the Province of Ontario, **MAKE  
OATH AND SAY AS FOLLOWS:**

1. I am the Secretary of the Applicant, Trinity Ravine Community Inc. ("**Trinity Ravine**" or the "**Applicant**"), and as such, I have personal knowledge of the matters to which I herein depose. Where the source of my information or belief is other than my own personal knowledge, I have identified the source and the basis for my information and believe it to be true. All references to currency in this Affidavit are references to Canadian dollars, unless otherwise indicated.
2. Capitalized terms are as defined in my Affidavit sworn February 22, 2022 (the "**First Affidavit**") unless otherwise defined herein. A copy of the First Affidavit (without exhibits") is attached hereto as **Exhibit "A"**.

## I. OVERVIEW OF MOTION

### A. Background

3. The Applicant, Trinity Ravine, is the developer of a real estate development project known as Trinity Ravine Community (the “**Project**”) located at the real property municipally known as 1256 Markham Road, Scarborough, Ontario (the “**Development Land**”).
4. On February 24, 2022, the Applicant sought and obtained creditor protection and other ancillary relief pursuant to an order granted by this Court (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”, and such proceedings, the “**CCAA Proceedings**”). A copy of the Initial Order (together with the Endorsement of Justice Penny dated February 23, 2022) is attached hereto as **Exhibit “B”**.
5. Pursuant to the Initial Order, *inter alia*, the Court: (a) declared that the Applicant is a company to which the CCAA applies; (b) authorized the Applicant to remain in possession and control of its assets, undertaking and properties (the “**Property**”) and continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”); (c) ordered a stay of all proceedings and remedies in respect of the Applicant or affecting its business or property (the “**Stay**”) for an initial period of ten (10) days up to and including March 5, 2022 (the “**Stay Period**”); (e) appointed Deloitte Restructuring Inc. as monitor of the Applicant in these CCAA proceedings (in such capacity, the “**Monitor**”); and (f) granted an administration charge (the “**Administration Charge**”) on the Property in the initial amount of \$150,000 as security for the payment of the professional fees and disbursements incurred and to be incurred by the Monitor, counsel to the Monitor, and counsel to the Applicant, in connection with the CCAA Proceedings.

**B. Overview of the Motion**

6. As more particularly described below, since the date of the Initial Order, the Applicant, with the assistance of the Monitor, has secured debtor-in-possession financing and has prepared a proposed sales and investment solicitation process (“SISP”) in respect of the Property. Accordingly, the Applicant brings this motion for the following relief:
- (a) An amended and restated Initial Order (the “**Amended and Restated Initial Order**”), substantially in the form of the draft order attached at Schedule “A” to the Notice of Motion, *inter alia*, (i) approving the DIP Commitment, the DIP Facility and the DIP Lender’s Charge (as such terms are defined below), (ii) increasing the Administration Charge to \$250,000; and (iii) extending the Stay Period to July 22, 2022; and
  - (b) An Order (the “**SISP Order**”, which term includes the SISP Procedures attached as Schedule “A” thereto) substantially in the form of the draft order attached at Schedule “B” to the Notice of Motion, *inter alia*, (i) approving the SISP; (ii) authorizing the Applicant to undertake the SISP, with the assistance of the Monitor; and (iii) approving the First Report of the Monitor, to be filed.
7. I believe that the relief requested is in the best interests of the Applicant and its creditors and other stakeholders, and that it would be fair, reasonable and appropriate for the Court to grant the Amended and Restated Initial Order and the SISP Order.

## II. THE AMENDED AND RESTATED ORDER

8. The Applicant seeks the issuance of the draft Amended and Restated Initial Order, and has included a blackline of same compared to the Initial Order at Schedule “A” to the Notice of Motion.
9. If granted, the Amended and Restated Initial Order will have the effect of: (i) approving the DIP Facility and the DIP Lender’s Charge, (ii) increasing the Administration Charge to \$250,000; and (iii) extending the Stay Period to July 22, 2022. The balance of the amendments to the Initial Order relate to various ancillary issues such as reporting and other obligations arising from the DIP Commitment.

### A. The Applicant’s Need for Interim Funding

10. In support of the application for the Initial Order, the Monitor prepared a 13-week consolidated cash flow forecast for the Applicant for the period ending May 22, 2022 (the “**13-Week Cash Flow Forecast**”) and a 26-week cash flow forecast for the Applicant for the period ending August 21, 2022 (the “**26-Week Cash Flow Forecast**”). The 26-Week Cash Flow Forecast indicates a requirement for the Applicant to obtain financing of at least \$538,000 to successfully complete a Plan.
11. The 13-Week Cash Flow Forecast and the 26-Week Cash Flow Forecast indicate that the Applicant requires an immediate funding commitment in order to commence the SISP and complete the CCAA proceeding.

**B. The Proposed DIP Facility**

12. Since the granting of the Initial Order on February 23, 2022, the Applicant, with the assistance of the Monitor, has (i) finalized and entered into a DIP Facility Term Sheet with Nahid Corporation, as lender (the “**DIP Lender**”, which term includes any affiliate) dated February 28, 2022 (the “**DIP Commitment**”). A copy of the DIP Commitment is attached hereto as **Exhibit “C”**.
13. Pursuant to DIP Commitment, the DIP Lender has agreed to provide the Applicant with a non-revolving facility in the maximum principal amount of \$850,000.00 (the “**DIP Facility**”), payable in monthly tranches, with interest thereon at a rate per annum equal to 12% or the TD Bank Prime Rate plus 9.55%. It is a condition of the DIP Facility that it be secured by a Court-ordered first-priority charge against all of the Property of the Applicant (the “**DIP Lender’s Charge**”).
14. I believe that the Applicant’s management team has the confidence of its major creditors. I also believe that the proceeds of the DIP Facility will enhance the prospects of a viable compromise or arrangement being made in respect of the Applicant. The appraised value of the Development Land is considerable higher than the charges against same, and I do not believe that the granting of the DIP Lender’s Charge would unfairly or unduly prejudice any other creditor.
15. I believe that the DIP Facility and the DIP Lender’s Charge are necessary to these CCAA proceedings, and represent reasonable terms. I understand that the Monitor also supports and approves the DIP Facility and the DIP Lender’s Charge.

**C. Increase to Administration Charge**

16. The Applicant obtained an initial Administration Charge against the Property in favour of the Monitor and its counsel and the Applicant's counsel to an initial maximum aggregate amount of \$150,000 in order to secure the payment of fees and expenses incurred in connection with moving for the within relief sought and for the initial ten (10) day protection period leading up to the first comeback hearing.
17. The Administration Charge was originally proposed to rank as a first-priority charge, with the exception of the Encumbrances.
18. However, pursuant to the DIP Commitment, the DIP Lender requires that the DIP Lender's Charge be given first priority ranking, ahead of the Administration Charge. I understand that this is acceptable to the Monitor and other beneficiaries of the Administration Charge, provided that the amount of the Administration Charge is increased to \$250,000 due to any incremental risk associated with the DIP Lender's Charge having a first-priority ranking. I believe that the increase is fair and reasonable in the circumstances.
19. In addition, as set out in the First Affidavit, it was contemplated that the amount of the Administration Charge might be increased at a later date.

**D. Extension of Stay of Proceedings**

20. The current Stay Period under the Initial Order expires on March 5, 2022. The Applicant seeks to an extension of the Stay to July 22, 2022. This extension to the Stay Period will enable the Applicant to conduct the SISF through selection of a Successful Bid and a Motion for approval of a proposed transaction.

21. The Applicant has acted and continues to act in good faith and with due diligence in these proceedings, and the extension to the Stay Period is in the best interest of all creditors and other stakeholders in this proceeding.
22. I understand that the Monitor supports the proposed extension to the Stay Period.

### **III. THE SISP ORDER**

#### **A. Background**

23. In the First Affidavit, I stated that the Applicant intended to conduct a “dual track” SISP, with a view toward either: (a) securing sufficient financing and Purchaser support to complete the Project in a way that provides sufficient liquidity to deal with Purchasers who wish to terminate their Life Lease Agreements, or (b) selling the Development Land and distributing the proceeds to Purchasers and other creditors. I also stated that the Applicant intended to seek Court approval of the SISP (among other things) within 10 days thereafter.
24. Accordingly, the Applicant now seeks court-approval of the proposed SISP substantially in the form attached as Schedule “B” to the Notice of Motion in order to attend to and undertake a sale in respect of the Property and/or the Business.

#### **B. Key Terms & Milestones**

25. The SISP provides participants with the option to submit two types of bids:
  - (a) a bid for the real property municipally known as 1250 Markham Road, Scarborough Ontario (the “**Real Property**”); or

(b) a bid for the Real Property and all property and collateral of the Applicant in connection with its development business of the Real Property (the “**Development Assets**”).

26. The key terms and deadlines set out in the proposed SISP are as follows (all capitalized terms not otherwise defined in this section have the meaning prescribed to them in the proposed SISP):

<b>Milestone</b>	<b>Date(s)</b>
Marketing and due diligence period	March 4, 2022 – May 6, 2022
LOI Deadline	May 6, 2022
Final Bid Deadline	June 17, 2022
Final Agreement Deadline	June 24, 2022
Targeted transaction closing date	August 31, 2022

27. I believe that the proposed SISP is reasonable in the circumstances, and will attract varying bids in order to maximize transaction value as well as the opportunity to monetize the Development Assets.

28. I understand that the Monitor supports the proposed SISP and is also of the view that the proposed SISP, and the timelines contained therein, are reasonable and in the best interests of all stakeholders.



**IV. CONCLUSION**

29. I swear this affidavit in support of a Motion for (a) the Amended and Restated Initial Order, and (b) the SISP Order, and for no other or improper purpose.

SWORN before me at the City of Toronto, in the Province of Ontario, this 28<sup>th</sup> day of February 2022.

DocuSigned by:

*Monica Fakhim*

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Commissioner for Taking Affidavits

DocuSigned by:

*Jeremy Anderson*

JEREMY ANDERSON

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This is Exhibit “C” referred to in the Affidavit of JEREMY ANDERSON sworn by JEREMY ANDERSON of the City of Toronto, in the Province of Ontario, before me at the City of Mississauga, in the Province of Ontario, on July 14, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Monica Faheim

Commissioner for Taking Affidavits (or as may be)

**MONICA FAHEIM**

Court File No.: CV-22-00677236-00CL

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

THE HONOURABLE	)	WEDNESDAY, THE 23RD
	)	
JUSTICE PENNY	)	DAY OF FEBRUARY, 2022



IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**INITIAL ORDER**

THIS APPLICATION, made by Trinity Ravine Community Inc. ("**Trinity Ravine**" or the "**Applicant**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Jeremy Anderson sworn February 22, 2022 and the Exhibits thereto (the "**Anderson Affidavit**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for Deloitte Restructuring Inc. ("**Deloitte**") and counsel to the secured creditor, Nahid Corp., and no one appearing for any other party listed on the Service List set out in the Notice of Application, although duly served as appears from the affidavit of service of Shallon Garrafa sworn February 22, 2022, and on reading the consent of Deloitte to act as the Monitor (as defined below),

## **SERVICE**

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

## **APPLICATION**

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

3. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**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 business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled to continue to utilize the banking and cash management system currently in place as described in the Anderson Affidavit, or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee 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; and
- (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.

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

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) 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 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 date of this Order, or where such Sales Taxes were accrued or collected prior to the date 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.

9. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

11. THIS COURT ORDERS that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution



of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

14. THIS COURT ORDERS that until and including March 5, 2022, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (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 RIGHTS**

16. THIS COURT ORDERS that during the Stay Period, 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, except with the written consent of the Applicant and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

17. THIS COURT ORDERS that during the Stay Period, 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 Business or 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 premises, 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 each of the Applicant and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

18. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

19. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, 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 a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

## **DIRECTORS' AND OFFICERS' INDEMNIFICATION**

20. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

## **APPOINTMENT OF MONITOR**

21. THIS COURT ORDERS that Deloitte Restructuring Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

22. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicant in its development of the Plan and any amendments to the Plan;

- (d) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

23. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

24. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property 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 Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

25. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

26. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

27. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, whether incurred prior to, on, or subsequent to, the date of this Order, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and

directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a weekly basis, and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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

29. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000 as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 30 and 32 hereof.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

30. THIS COURT ORDERS that the Administration Charge shall rank as a first-priority charge on the Property.

31. 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 subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

32. THIS COURT ORDERS that the Administration Charge (as constituted and defined herein) shall constitute a charge on the Property and the 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, provided that the Administration Charge shall rank behind Encumbrances in favor of any Persons that have not been served with notice of this application. The Applicant and the beneficiaries of the Administration Charge shall be entitled to seek priority ahead of such Encumbrances on notice to those parties.

33. 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 Monitor and the beneficiaries of the Administration Charge, or further Order of this Court.

34. 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 and the declarations of insolvency made herein; (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 (collectively, 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 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.

35. THIS COURT ORDERS that the Administration Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

#### **SERVICE AND NOTICE**

36. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe and Mail a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the

prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

37. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) 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 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: [www.insolvencies.deloitte.ca/en-ca/trinityravine](http://www.insolvencies.deloitte.ca/en-ca/trinityravine).

38. THIS COURT ORDERS that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, 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 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 judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2175 (SOR/DORS).

**GENERAL**

39. THIS COURT ORDERS that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties under this Order or in the interpretation of this Order hereunder.

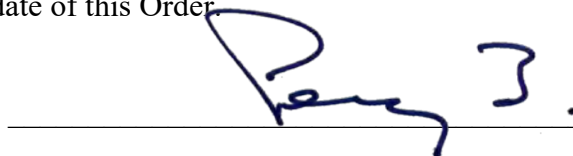
40. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

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

42. THIS COURT ORDERS that each of the Applicant and the Monitor 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 Monitor 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.

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

44. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

Court File No.: CV-22-00677236-00CL

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

Proceeding commenced at TORONTO

**INITIAL ORDER**

**MILLER THOMSON LLP**

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Lawyers for the Applicant, Trinity Ravine Community Inc.



**CITATION:** Trinity Ravine Community Inc., 2022 ONSC 1277  
**COURT FILE NO.:** Court File No. CV-22-00677236-00CL  
**DATE:** 2022-02-24

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

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.  
1985, c.C-36 AS AMENDED AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF TRINITY RAVINE COMMUNITY  
INC.

**BEFORE:** Penny J.

**COUNSEL:** Gregory Azeff, Stephanie De Caria and Monica Faheim for the applicant

Monique Sassi for the proposed Monitor

Sara-Ann Wilson for Nahid Corp.

**HEARD:** February 23, 2022

**ENDORSEMENT**

- [1] This is an application made by Trinity Ravine Community Inc. for an initial order and other related relief under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended. Following oral submissions, I issued the initial order with reasons to follow. These are the reasons.
- [2] The applicant, Trinity Ravine, is a registered charitable organization developing a real estate project known as Trinity Ravine Community located at 1256 Markham Road, Scarborough, Ontario. The applicant is affiliated with Global Kingdom Ministries Church Inc., a member church of the Pentecostal Assemblies of Canada, which is a fellowship of over 1,100 Canadian churches. The church is the applicant's sole member.
- [3] Trinity Ravine Community is a proposed two-tower, 605-unit project intended to serve the senior citizens' community. The development land is the applicant's primary asset, and is a "shovel ready", permitted land parcel. The last appraised value for the development land as a high-density residential development property was approximately \$32 million.
- [4] The project utilizes a life lease structure under which prospective residents buy the right to occupy units in the project upon completion. As of November 6, 2019, the applicant sold life leases to a total of 439 purchasers under what are called life lease occupancy agreements.
- [5] As of September 30, 2021, the applicant had assets of \$25,766,228.49 and liabilities of \$29,115,052.79.12.

- [6] From the 439 purchasers in the project, a total of approximately \$27.6 million was paid to the applicant in the form of deposits.
- [7] Due primarily to skyrocketing construction costs and delays and uncertainty caused by the COVID-19 pandemic, the project's financial model is no longer viable. Due to delays in moving the project forward, over the last few years a number of purchasers terminated their life lease agreements and demanded the return of their deposits. The applicant accepted the termination requests of 188 purchasers. Deposits (inclusive of interest) in the aggregate amount of \$12,229,521.49 were returned to those purchasers.
- [8] A total of 280 purchasers remain in the project with deposits in the aggregate principal amount of \$16,119,649.96.16. Of the remaining purchasers, another 120 have more recently terminated their life lease agreements and demanded return of their deposits. The applicant does not have the money to repay these deposits. The funds not reimbursed to the initial 188 purchasers who terminated have been used up largely for the payment of pre-construction development costs.
- [9] Given the applicant's dwindling cash reserves as well as mounting pressure from purchasers and other creditors, an orderly process is required. The applicant wishes to conduct a "dual track" sale and investment solicitation process under the CCAA, with a view to either:
- (a) securing sufficient financing and purchaser support to complete the project in a way that provides sufficient liquidity to deal with purchasers who wish to terminate their life lease agreements; or
  - (b) selling the development and distributing the proceeds to purchasers and other creditors.
- [10] The total claims against the applicant exceed five million dollars.
- [11] The applicant was incorporated under Part II of the *Canada Corporations Act* and was continued under the *Canada Not-for-profit Corporations Act*. The applicant is therefore a "company" within the meaning of the CCAA.
- [12] I accept the evidence that the applicant is currently insolvent. The test under the BIA is satisfied. The applicant's liabilities materially exceed its balance sheet assets. The cash flow forecasts show that the applicant is unable to pay liabilities that are currently due and coming due. In particular, as described above, a number of purchasers have terminated their life lease agreements and have demanded return of their deposits; the applicant is unable to do so.
- [13] Although this enterprise is a real estate development, there are a number of factors that nevertheless militate in favour of a CCAA order:
- (1) the applicant is not a standard commercial real estate developer; rather, it serves a charitable purpose, namely, to provide a living community for senior citizens;



- (2) there is significant equity in the development land and the realizable value of the development land appears sufficient, if realized appropriately, to satisfy the applicant's obligations to its creditors;
  - (3) the SISP contemplated by the applicant appears to be a viable plan and includes an achievable timeline for completion;
  - (4) the process contemplated by the applicant would pose no significant prejudice to its senior secured lenders (indeed, the secured creditors support the application); and
  - (5) the SISP will ensure that recoveries of the applicant's creditors are maximized by providing for a sales and marketing process that thoroughly canvasses the market in an orderly manner, and a claims process that ensures that creditor claims are assessed and paid in a fair, timely and orderly fashion.
- [14] Section 11.02 of the CCAA, authorizes a stay of all proceedings concerning a debtor company for a period of ten days, provided that the Court is satisfied that (i) circumstances exist that make the order appropriate, and (ii) the applicant has acted, and is acting, in good faith and with due diligence. These requirements are met in this case.
- [15] The Court has granted CCAA protection to not-for-profit organizations providing community services before. A stay of proceedings is necessary in this case to allow the applicant the opportunity to formulate and implement an orderly restructuring plan and avoid the negative impact on the senior citizens' community of creditor realization, receivership or bankruptcy.
- [16] Deloitte, the proposed Monitor, is a "trustee" within the meaning of s. 2(1) of the BIA and is not subject to any of the restrictions on who may act as a monitor under s. 11.7(2) of the CCAA. Deloitte has consented to be appointed as Monitor in these CCAA proceedings.
- [17] The applicant seeks an initial administration charge against the property of the applicant (including, in particular, the development land) in favour of its counsel, the proposed Monitor, and the proposed Monitor's counsel, to an initial maximum aggregate amount of \$150,000, in order to secure payment of fees and expenses incurred in connection with this within application and for the initial ten-day period. The SISP and CCAA process will require extensive input from professional advisors and there is an immediate need for this advice.
- [18] The administration charge satisfies the *Canwest* factors and is, therefore, granted. The amount of the administration charge is limited to what is reasonably necessary for the initial stay period and is supported by the proposed Monitor.
- [19] In summary, the CCAA will allow the Applicant to implement a two-pronged SISP with the objective of enabling the Applicant to either: (i) secure the necessary financing and purchaser support to complete the project; or (ii) sell the development land and distribute the proceeds to purchasers and other creditors. The initial order sought by the applicant

will provide the required breathing room for the applicant to design and implement the SISP, with a view to protecting the interests of the purchasers and other stakeholders.

[20] For these reasons, the initial order is granted.

[21] Counsel shall make arrangements with the Commercial List office to book the required come back date.

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

**Penny J.**

**Date:** 2022-02-24

This is Exhibit “D” referred to in the Affidavit of JEREMY ANDERSON sworn by JEREMY ANDERSON of the City of Toronto, in the Province of Ontario, before me at the City of Mississauga, in the Province of Ontario, on July 14, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Monica Faheim

Commissioner for Taking Affidavits (or as may be)

**MONICA FAHEIM**

Court File No.: CV-22-00677236-00CL

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

THE HONOURABLE ) FRIDAY, THE 4th  
 )  
JUSTICE CONWAY ) DAY OF MARCH, 2022  
 )

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**AMENDED AND RESTATED INITIAL ORDER**

THIS MOTION, made by Trinity Ravine Community Inc. (“**Trinity Ravine**” or the “**Applicant**”) for orders, among other things: (i) amending and restating the Initial Order (the “**Initial Order**”) issued on February 23, 2022 (the “**Initial Filing Date**”) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), (ii) approving the DIP Facility and granting the DIP Lender’s Charge (as such terms are defined below), and (iii) approving a sale and investment solicitation process (“**SISP**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Jeremy Anderson sworn February 22, 2022 and the Exhibits thereto, the affidavit of Jeremy Anderson sworn February 28, 2022 and the Exhibits thereto, and the First Report of Deloitte Restructuring Inc. (“**Deloitte**”) in its capacity as CCAA Monitor (in such capacity, the “**Monitor**”) dated March 1, 2022, and on hearing the submissions of counsel

for the Applicant, counsel for the Monitor, counsel to the secured creditor, Nahid Corporation, and no one appearing for any other party listed on the Service List set out in the Motion Record, although duly served as appears from the affidavit of service of Shallon Garrafa sworn February 28, 2022,

### **INITIAL ORDER & INITIAL FILING DATE**

1. THIS COURT ORDERS that the Initial Order, reflecting the Initial Filing Date, shall be amended and restated as provided for herein.

### **SERVICE**

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

### **APPLICATION**

3. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

### **PLAN OF ARRANGEMENT**

4. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

## POSSESSION OF PROPERTY AND OPERATIONS

5. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**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 business or for the carrying out of the terms of this Order.

6. THIS COURT ORDERS that the Applicant shall be entitled to continue to utilize the banking and cash management system currently in place as described in the Anderson Affidavit, or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. THIS COURT ORDERS that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee 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; and
- (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.

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

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

9. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) 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 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 date of this Order, or where such Sales Taxes were accrued or collected prior to the date 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.

10. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time (“**Rent**”), for the period



commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. THIS COURT ORDERS that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

12. THIS COURT ORDERS that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

13. THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant’s claim to the fixtures in dispute.

14. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours’ prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein

shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

15. THIS COURT ORDERS that until and including July 22, 2022, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (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 RIGHTS**

17. THIS COURT ORDERS that during the Stay Period, 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, except with the written consent of the Applicant and the Monitor, or leave of this Court.

**CONTINUATION OF SERVICES**

18. THIS COURT ORDERS that during the Stay Period, 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 Business or 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 premises, 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 each of the Applicant and the Monitor, or as may be ordered by this Court.

**NON-DEROGATION OF RIGHTS**

19. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any

monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

20. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, 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 a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION**

21. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

### **APPOINTMENT OF MONITOR**

22. THIS COURT ORDERS that Deloitte Restructuring Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all

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

23. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender (as defined below) and its counsel on a monthly basis of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicant in the Applicant's preparation of its cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than monthly basis, or as otherwise agreed to by the DIP Lender;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

24. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property 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 Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

26. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicant including the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. For certainty, the Monitor shall not be required to provide information regarding the SISP to any creditor including the DIP Lender which in its opinion could negatively impact the SISP or the Applicant. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

27. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

28. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, whether incurred prior to, on, or subsequent to, the date of this Order, in each case at their standard rates and charges, by the



Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a weekly basis, and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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

30. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$250,000 as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 37 and 39 hereof.

#### **DIP FINANCING**

31. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility (the "**DIP Facility**") from Nahid Corporation or an affiliate (the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and restructuring professional fees, provided that borrowings under the DIP Facility shall not exceed \$850,000 unless permitted by further Order of this Court.

32. THIS COURT ORDERS THAT the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Facility term sheet between the Applicant and the DIP Lender, dated February 28, 2022 (the “**Term Sheet**”), filed.

33. THIS COURT ORDERS that the Term Sheet is approved and the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

34. THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property. The DIP Lender's Charge secures, (a) the obligations of the Applicant to the DIP Lender, including the payment of principal, interest, fees and other amounts under the Term Sheet, and (b) all costs, fees and expenses, including legal fees and disbursements, incurred by the DIP Lender in connection with the Term Sheet, the DIP Facility, the within proceedings and the enforcement of the DIP Lender’s rights under the Term Sheet, this Order, any other Court order and the DIP Lender’s Charge. The DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 37 and 39 hereof.

35. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Term Sheet, Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon seven (7) days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Term Sheet, the Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Term Sheet, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

36. THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Term Sheet or the Definitive Documents.

**VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

37. THIS COURT ORDERS that the priorities of the Administration Charge and the DIP Lender's Charge, as among them, shall be as follows:

First – DIP Lender's Charge; and

Second – Administration Charge (to the maximum amount of \$250,000).

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

39. THIS COURT ORDERS that the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein) shall each constitute a charge on the Property and the Charges 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.

40. 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, unless the Applicant obtains the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Administration Charge, or further Order of this Court.

41. THIS COURT ORDERS that the Administration Charge, the Term Sheet, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the

“**Chargees**”) and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (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 (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party; and
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents.

42. THIS COURT ORDERS that the payments made by the Applicant pursuant to this Order, the Term Sheet or the Definitive Documents, and the granting of the Charges, the execution and delivery of the Term Sheet and the Definitive Documents, and all actions taken to perfect, record, and register the DIP Lender’s Charge do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable, reviewable or voidable transactions under any applicable law.

43. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge on the Applicant's interest in such real property leases.

44. THIS COURT ORDERS AND DIRECTS that the Applicant register a copy of this Order on title to the Real Property (as defined in the Affidavit of Jeremy Anderson sworn February 28, 2022).

### **SERVICE AND NOTICE**

45. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe and Mail a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

46. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) 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 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL: [www.insolvencies.deloitte.ca/en-ca/trinityravine](http://www.insolvencies.deloitte.ca/en-ca/trinityravine).

47. THIS COURT ORDERS that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, 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 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 judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2175 (SOR/DORS).

#### **GENERAL**

48. THIS COURT ORDERS that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties under this Order or in the interpretation of this Order hereunder.

49. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

50. 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 Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this

Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

51. THIS COURT ORDERS that each of the Applicant and the Monitor 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 Monitor 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.

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

53. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

  
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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

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

Proceeding commenced at TORONTO

**AMENDED & RESTATED INITIAL ORDER**

**MILLER THOMSON LLP**

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Lawyers for the Applicant, Trinity Ravine Community Inc.

This is Exhibit “E” referred to in the Affidavit of JEREMY ANDERSON sworn by JEREMY ANDERSON of the City of Toronto, in the Province of Ontario, before me at the City of Mississauga, in the Province of Ontario, on July 14, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Monica Faheim

A627328446D742A...

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*Commissioner for Taking Affidavits (or as may be)*

**MONICA FAHEIM**

Court File No.: CV-22-00677236-00CL

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

THE HONOURABLE ) FRIDAY, THE 4th  
JUSTICE CONWAY ) DAY OF MARCH, 2022

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.

**ORDER  
(Re: Sale and Investment Solicitation Process)**

THIS MOTION, made by Trinity Ravine Community Inc. (“**Trinity Ravine**” or the “**Applicant**”) for orders, among other things, approving a sale and investment solicitation process, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Jeremy Anderson sworn February 22, 2022 and the Exhibits thereto, the affidavit of Jeremy Anderson sworn February 28, 2022 and the Exhibits thereto, and the First Report of Deloitte Restructuring Inc. (“**Deloitte**”) in its capacity as CCAA Monitor (in such capacity, the “**Monitor**”) dated March 1, 2022, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel to the secured creditor, Nahid Corporation, and no one appearing for any other party listed on the Service List set out in the Motion Record,

although duly served as appears from the affidavit of service of Shallon Garrafa sworn February 28, 2022,

## **SERVICE**

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

## **APPROVAL OF SALE PROCESS**

2. **THIS COURT ORDERS** that the Sale and Investment Solicitation Process (“SISP”, which term includes the procedures described at Schedule “A” hereto), be and is hereby approved.

3. **THIS COURT ORDERS** that all capitalized terms in this section of this Order shall have the same meaning prescribed to them in the SISP.

4. **THIS COURT ORDERS** that the Monitor, with the assistance of the Applicant, is hereby authorized to commence and carry out the SISP in accordance with its terms and this Order, and the Monitor and the Applicant are authorized to take such steps and execute such documentation as are considered necessary or desirable in carrying out the terms of the SISP.

5. **THIS COURT ORDERS** that the SISP may be amended and the timelines prescribed therein may be extended by the Monitor in consultation with the Applicant.

6. **THIS COURT ORDERS** that the Applicant, the Monitor and their respective assistants, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in

connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or willful misconduct of the Applicant or the Monitor, as applicable, as determined by this Court.

## **PIPEDA**

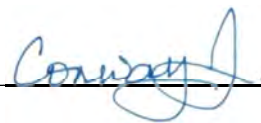
7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicant may disclose personal information of identifiable individuals to prospective purchasers or bidders for Applicant, Property or the Business, as applicable, and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete a transaction in respect of the Applicant, the Property or the Business (the “**Transaction**”). 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 Transaction, and if it does not complete a Transaction, shall return all such information to the Applicant, or in the alternative destroy all such information. The Successful Bidder shall be entitled to continue to use the personal information provided to it, and in a manner which is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information. The Winning Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Winning Bid(s), shall be entitled to use the personal information provided to it that is related to the Real Property and Development Assets acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Applicant or the Monitor or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicant or the Monitor as applicable.

## **APPROVAL OF FIRST REPORT**

8. **THIS COURT ORDERS** that the First Report of the Monitor and the activities described therein be and they are hereby approved.

## **GENERAL**

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



## SCHEDULE “A”

### PROCEDURES FOR SALE AND INVESTMENT SOLICITATION PROCESS Trinity Ravine Community Inc.

#### I. INTRODUCTION

1. Pursuant to the Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated February 23, 2022 (the “**Initial Order**”), Trinity Ravine Community Inc. (the “**Applicant**”) was granted protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the “**CCAA**”) and Deloitte Restructuring Inc. was appointed as Monitor (in such capacity, the “**Monitor**”). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Initial Order.
2. Pursuant to the Order of the Honourable Madam Justice Conway dated March 4, 2022 (the “**SISP Order**”), the Court approved and authorized the Monitor to undertake this sale and investment solicitation process (the “**SISP**”) to solicit interest from qualified parties in an acquisition of;
  - (a) the real property of the Applicant municipally known as 1256 Markham Road, Scarborough Ontario (the “**Real Property**”) as legally described in Schedule “1” attached hereto, pursuant to a commercial real estate transaction (the “**Real Property Bid**”); or
  - (b) the Real Property and the assets of the Applicant to be used for the development of the Real Property including but not limited to municipal development permits, site approvals and architecture drawings (the “**Development Assets**”) pursuant to an asset purchase transaction (the “**Development Bid**”).
3. This SISP describes the manner in which individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures, governmental organizations or other entities (each, a “**Person**”) may gain access to or continue to have access to due diligence materials concerning the Real Property and the Development Assets and how bids will be submitted to and dealt with by the Applicant and the Monitor, and how Court approval will be obtained in respect of consummating a transaction contemplated by a Real Property Bid or Development Bid.
4. The Monitor shall have the right to modify the SISP in consultation with the Applicant, including to modify the various deadlines herein if the Monitor in consultation with the Applicant in its reasonable business judgment, believes such modification will enhance the process or better achieve the objectives of the SISP. Any extensions or amendments herein will be communicated to Qualified Bidders (as defined below), in writing and such extensions or amendments shall be posted on the website the Monitor maintains in respect of the CCAA proceedings at <http://www.insolvencies.deloitte.ca/en-ca/trinityravine>.

## II. “AS IS, WHERE IS” BASIS

5. Any transaction involving the Applicant, the Real Property or the Development Assets will be on an “as is, where is” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Monitor, the Broker (as defined below) the Applicant, or any of their respective directors, officers, employees, agents, estates, advisors, professionals or otherwise, except to the extent expressly set forth in the relevant Final Agreement (as defined herein).
6. By submitting a Real Property Bid or a Development Bid, each Potential Bidder (as each capitalized terms are defined herein) shall be deemed to acknowledge and represent that: (i) it has had an opportunity to conduct any and all due diligence regarding the Applicant, the Real Property and the Development Assets to making its Real Property Bid or Development Bid, as applicable; (ii) it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Real Property, Applicant or Development Assets in making its Real Property Bid or Development Bid; and, (iii) that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Real Property, Applicant or Development Assets, as applicable, or the completeness of any information provided in connection therewith, except as expressly stated in this SISP or as set forth in the Final Agreement (as defined herein) approved by the Court.

### Supervision of the SISP

7. The Monitor with the assistance of the Broker (defined below) shall oversee, in all respects, the conduct of the SISP in the manner set out in this SISP, the SISP Order, the Initial Order and any other orders of the Court. In the event of any disagreement between the Monitor and the Applicant where the Monitor is required to consult with the Applicant, the Monitor’s decision shall prevail. However, any sale transaction pursuant to this SISP is to be ultimately selected and completed by the Applicant as vendor pursuant to section 35 of this SISP.

## III. THE SISP PROCESS

### A. Selection of Broker

8. As soon as reasonably practicable after the granting of the SISP Order, the Monitor, in consultation with the Applicant, may contact any licensed real estate agents and brokers (each a “**Prospective Broker**”) and invite such Prospective Brokers to respond to a request for proposal prepared by the Monitor to act as the licensed broker to assist the Monitor and Applicant with the sale of the Real Property (each such submission defined as a “**Sale Proposal**”). The Monitor, in consultation with the Applicant, will review the Sale Proposals in consideration of the factors and circumstances appropriate in these circumstances, including but not limited to proposed commission to be charged, and within 10 days (or such later date as the Monitor determines appropriate) after the granting of the SISP Order select a Prospective Broker as the successful broker to be engaged by the Applicant to assist the Monitor with the implementation of this SISP (the “**Broker**”).



9. The Broker and the Applicant shall enter into an agreement governing the services to be provided by the Broker which form shall be satisfactory to the Monitor and the Applicant (the “**Broker Agreement**”).

#### **B. Initial Solicitation of Interest**

10. Upon execution of the Broker Agreement, the Broker, with assistance from the Monitor and the Applicant, will prepare a list of potential bidders (the “**Known Potential Bidders**”) who may have interest in a transaction involving the Real Property and Development Assets. Such list will include both strategic and financial parties who, in the Broker, Monitor or Applicant’s reasonable business judgment, may be interested in acquiring an interest in the Real Property or Development Assets.
11. As soon as reasonably practicable after the granting of the SISP Order, the Broker, with assistance from the Monitor as needed, will cause a notice regarding this SISP (and such other relevant information which the Monitor in consultation with the Applicant consider appropriate), in a form satisfactory to and previously approved by the Monitor, to be published on the Broker’s website, MLS or any other website or in any other publication in which the Broker and Monitor determine notice of this SISP should be published.
12. Concurrently, the Monitor will direct the Broker to prepare an initial offering summary (the “**Teaser Letter**”) notifying Known Potential Bidders of the SISP and inviting the Known Potential Bidders to express their interest in making a Real Property Bid or Development Bid.
13. The Monitor will direct the Broker to distribute to the Known Potential Bidders and any other interested Persons the Teaser Letter, as well as a form of confidentiality agreement (the “**Confidentiality Agreement**”) which shall inure to the benefit of the Person or Persons who make the Winning Bid (as defined herein) pursuant to this SISP.
14. Any Person who (a) executes a Confidentiality Agreement, in form and substance satisfactory to the Monitor, acting reasonably, and (b) sets forth the identity of the potential bidder, contact information for such bidder and demonstrates that it has the financial capabilities and technical expertise to make a viable Real Property Bid or Development Bid, in form and substance satisfactory to the Monitor, acting reasonably, shall be deemed to be a potential bidder (each such Person so deemed, a “**Potential Bidder**”).

#### **C. Due Diligence**

15. The Monitor in consultation with the Applicant will direct the Broker (with assistance from the Monitor and Applicant) to create and provide a confidential information memorandum (“**CIM**”) describing the opportunity to make a Real Property Bid or Development Bid to each Potential Bidder as soon as practicable after such Person is deemed to be a Potential Bidder in accordance with this SISP.
16. The Monitor will direct the Broker to establish an electronic data room to be populated with (i) information (as provided by the Monitor with the assistance of the Applicant) pertaining to the Real Property and/or Development Assets (ii) a template sale agreement developed by the

Monitor and (iii) any other diligence materials requested by Potential Bidder(s) that the Monitor, Applicant and Broker determine appropriate and necessary to assist a Potential Bidder(s) in its review of the Real Property or the Development Assets.

17. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Real Property and Development Assets in connection with their participation in the SISP and any transaction they may enter into with the Applicant. Potential Bidders must not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever by the Monitor, Broker or Applicant, whether express, implied, statutory or otherwise, regarding the Real Property or Development Assets or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Applicant.
18. The Monitor reserves the right to limit any Potential Bidder's access to any confidential information (including any information in the CIM or a data room) where, in the Monitor's opinion after consultation with the Applicant, such access could negatively impact the SISP or the Applicant.

#### **D. Qualified LOI Process**

19. Any Potential Bidder who wishes to submit a Real Property Bid or Development Bid must deliver a written, non-binding letter of intent in respect of the Real Property and Development Assets, as applicable (each, a "LOI") to the Monitor at the address specified in Schedule "1" hereto **on or before 5:00 p.m. (Toronto time) on Friday, May 6, 2022**, or such other date or time as the Monitor may determine (the "LOI Deadline").
20. An LOI shall contain:
  - (a) a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect owners of the Potential Bidder and their principals;
  - (b) evidence of financial capability of the Potential Bidder to consummate the transaction including the structure and financing of the transaction including a specific indication of the anticipated sources of capital for such Potential Bidder and preliminary evidence of the availability of such capital, or such other form of financial disclosure and credit support or enhancement that will allow the Monitor and its legal advisors, to make, in their reasonable business or professional judgment, a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate a Real Property Bid or a Development Bid;
  - (c) an indication of whether the Potential Bidder wishes to tender (i) a Real Property Bid; or (ii) a Development Bid;
  - (d) in the case of a Development Bid, a description of the Development Assets expected to be included in the transaction;

- (e) the purchase price or price range (including any liabilities to be assumed by the Potential Bidder if applicable) and in the case of a Development Bid the allocation of the purchase price between the Real Property and the Development Assets;
  - (f) any anticipated corporate, shareholder, internal, regulatory or other approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - (g) any additional due diligence required or desired to be conducted by the Potential Bidder, if any;
  - (h) any conditions to closing that the Potential Bidder may wish to impose; and
  - (i) any other terms or conditions of the Real Property Bid or Development Bid which the Potential Bidder believes are material to the proposed transaction.
21. Following the LOI Deadline, the Monitor in consultation with the Applicant and the Broker, will assess the LOIs based on factors and circumstances as they consider appropriate in the circumstances including, but not limited to: (i) whether all conditions listed above have been met, (ii) the scope of the Real Property or Development Assets to which any LOIs may relate (iii) the conditions to closing contained in the LOIs, (iv) whether the bidder appears to have a bona fide interest in completing a transaction contemplated by the Real Property Bid or Development Bid (as the case may be); and (v) whether the bidder has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on the financial information provided. Based on this assessment the Monitor will determine if such bid and bidder will be deemed a “**Qualified LOI**” and “**Qualified Bidder**” respectively.
22. No bidder that has submitted a LOI shall be deemed to be a Qualified Bidder without the approval of the Monitor.
23. The Monitor in consultation with the Applicant may waive the strict compliance of one or more of the requirements specified above and deem any LOI to be a Qualified LOI, notwithstanding any noncompliance with the terms and conditions of this SISP. In the event that no Person submits an LOI, or that no LOI qualifies as or is deemed to qualify as a Qualified LOI, or that no LOI is deemed commercially reasonable to the Monitor, this SISP shall terminate.
24. The Applicant or Monitor may at any time bring a motion to the Court to seek approval of (i) a sale of all or part of the Real Property or the Development Assets whether or not such sale is in accordance with the timelines set out in this SISP or (ii) a stalking horse agreement in respect of some or all of the Real Property or Development Assets and related bid procedures in respect of such property.

#### **E. Final Bid Process**

25. The Broker, with assistance from the Monitor and the Applicant, may facilitate Qualified Bidders conducting additional due diligence or otherwise make available to Qualified Bidders

additional information not posted in the electronic data room, as determined by the Monitor acting reasonably.

26. Any Qualified Bidder may submit a binding Real Property Bid or Development Bid (each, a “**Final Bid**”) to the Monitor at the address specified in Schedule “2” hereto **on or before 5:00 pm (Toronto time) on Friday June 17, 2022**, or such later time and date that the Monitor may determine (the “**Final Bid Deadline**”).
27. A Final Bid submitted as a Real Property Bid or Development Bid shall be a “**Qualified Final Bid**” provided that:
  - (a) the bid complies with all requirements set out above for a Qualified LOI or as waived by the Monitor pursuant to paragraph 23;
  - (b) in the case of a Real Property Bid, it includes a provision stating that the Real Property Bid is irrevocable until the earlier of (i) the approval by the Court of the transaction contemplated in the Real Property Bid, and (ii) thirty (30) days following the Final Bid Deadline; provided, however, that if such Real Property Bid is selected as the Winning Bid or the Backup Bid, it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
  - (c) in the case of a Development Bid, it includes a provision stating that the Development Bid is irrevocable until the earlier of (i) the approval by the Court of the transaction contemplated in the Real Property Bid, and (ii) thirty (30) days following the Final Bid Deadline; provided, however, that if such Development Bid is selected as the Winning Bid or the Backup Bid, it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
  - (d) it includes duly authorized and executed transaction documents including a purchase and sale agreement specifying all consideration payable, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules thereto and a proposed order to approved the transaction by the Court;
  - (e) blackline comparison between the transaction agreement submitted and the template sale agreement provided in the data room;
  - (f) it does not include any request or entitlement to any break fee, expense reimbursement or similar type of payment;
  - (g) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence satisfactory to the Monitor and Applicant, in their sole discretion acting reasonably, to allow the Applicant and Monitor to make a reasonable determination as to the Qualified Bidders (and its direct and indirect owners and their principals) financial and other capabilities to

consummate the transaction contemplated by the Real Property Bid or Development Bid;

- (h) it is not conditional on (i) the outcome of unperformed due diligence by the Qualified Bidder and/or (ii) obtaining any financing capital and includes an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its Real Property Bid;
- (i) except in the case of a Development Bid, it is not conditional upon any regulatory approval;
- (j) it fully discloses the identity of each Person that is directly or indirectly bidding or otherwise that will be sponsoring or participating in the Real Property Bid or Development Bid, including the identification of the bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
- (k) it is accompanied by a refundable deposit (the “**Deposit**”) in the form of a wire transfer (to a trust account specified by the Monitor) in an amount equal to \$500,000 to be paid in respect of the Real Property Bid or Development Bid, to be held and dealt with in accordance with this SISP;
- (l) the bid includes acknowledgements and representations of the Qualified Bidder: (i) it confirms that the transaction is on an “as is, where is” basis; (ii) it has had an opportunity to conduct any and all due diligence regarding the Real Property and Development Assets, if applicable, prior to making its offer; (iii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Real Property and Development Assets in making its bid; and (iv) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Real Property or Development Assets or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Applicant;
- (m) it contains other information reasonably requested by the Monitor, Broker or Applicant; and
- (n) it is received by no later than the Final Bid Deadline.

28. The Monitor, in consultation with the Applicant, may waive the strict compliance of one or more of the requirements specified above and deem any Final Bid to be a Qualified Final Bid and notwithstanding any non-compliance with the terms and conditions of this SISP.

29. If the Monitor in consultation with the Applicant is not satisfied with the number or terms Qualified Final Bids received, the Monitor may, extend the Final Bid Deadline, or may amend the SISP in accordance with the terms set out herein and subject to any applicable stay of proceedings and the Applicant’s available cash.

30. A Qualified Final Bid will be evaluated based upon several factors including, without limitation: (i) the purchase price and the value provided by such bid; (ii) the identity, circumstances and ability of the Qualified Bidder to successfully complete such transactions; (iii) the proposed transaction documents; (iv) factors affecting the speed, certainty and value of the transaction; (v) the assets or liabilities included or excluded from the bid; (vi) any related restructuring costs; (vii) the likelihood and timing of consummating such transaction, and (viii) any other factor the Monitor determines relevant, each as determined by the Monitor and the Applicant, in consultation with the Broker.

#### F. Selection of Winning Bid

31. The Monitor in consultation with the Broker and Applicant shall review all Qualified Final Bids and identify the highest or otherwise best bid (the “**Winning Bid**”) and the next highest, best or otherwise most favourable Qualified Bid received, as determined by the Monitor, shall be the “**Backup Bid**”. The Qualified Final Bidders(s) who made the Winning Bid shall be the “**Successful Bidder**” and the Qualified Final Bidder(s) who made the Backup Bid shall be the “**Backup Bidder**”.
32. The Person or Persons who submitted the Winning Bid shall enter into an agreement or agreements (each a “**Final Agreement**”) with the Applicant on or before 5:00 pm (Toronto time) on Friday June 24, 2022 (the “**Final Agreement Deadline**”) for a transaction closing no later than 5:00 pm (Toronto time) on Wednesday August 31, 2022 or such later time and date that the Monitor in consultation with the Applicant may determine.
33. The Monitor will notify each of the Successful Bidder and the Backup Bidder of the Final Agreement and the Backup Bid shall remain open until the consummation of the transaction contemplated by the Winning Bid (and, for greater certainty, the Monitor shall be entitled to continue to hold the Deposit in respect of the Backup Bid until such time as the transaction contemplated by the Winning Bid is consummated).
34. In the event that no Qualified Final Bidder submits or is deemed to have submitted a Qualified Final Bid, or the Monitor determines that none of the Qualified Final Bids should be accepted, or that a Final Agreement is not entered into before the Final Agreement Deadline, this SISP shall terminate, unless otherwise ordered by the Court.
35. The highest Qualified Final Bid may not necessarily be accepted by the Applicant. The Applicant reserves its right not to accept any Qualified Final Bid, to vary the terms of or to otherwise terminate the SISP. The Applicant further reserves the right to deal with one or more Qualified Bidders to the exclusion of other Persons, to accept a Qualified Final Bid or Qualified Final Bids for some or all of the Real Property or Development Assets to accept multiple Qualified Final Bids and enter into multiple Final Agreements.

#### IV. DEPOSITS

36. All Deposits paid pursuant to this SISP shall be held in trust by the Monitor. The Monitor shall hold Deposits paid by each of the Winning Bidder and the Backup Bidder in accordance with the terms outlined in this SISP. In the event that a Deposit is paid pursuant to this SISP and the



Applicant elects not to proceed to negotiate and settle the terms and conditions of a definitive agreement with the Person that paid such Deposit, the Monitor shall return the Deposit and any interest accrued thereon to that Person. In the event that either of the Successful Bidder or the Backup Bidder default in the payment or performance of any obligations owed to the Applicant pursuant to any Final Agreement the Deposit paid by the Winning Bidder or the Backup Bidder, as applicable, shall be forfeited to the Applicant as liquidated damages and not as a penalty.

## **V. APPROVAL ORDER**

37. In the event that the Applicant enters into a Final Agreement, the Applicant or the Monitor shall apply for an order from the Court approving the transaction contemplated by the Winning Bid and any necessary related relief required to consummate the transaction contemplated by the Winning Bid, subject to the terms of the Final Agreement. The Applicant or the Monitor may also concurrently obtain relief approving the transaction contemplated by the Backup Bid and any necessary related relief required to consummate the transaction contemplated by the Backup Bid.
38. For the avoidance of doubt, the completion of any transaction contemplated by a Real Property or Development Bid shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.

## **SCHEDULE "1"**

### **Legal Description of Real Property**

**PIN:**

06179-0141 (LT)

**Property Description:**

PART OF LOT 32 RCP 10620 PARTS 1, 3, 9, 11, 12 ON PLAN 66R31325; TOGETHER WITH AN EASEMENT OVER PT LT 32 RCP 10620, PT 1, 66R2905 AS IN AT1386573; TOGETHER WITH AN EASEMENT OVER PART OF LOT 32 RCP 10620, PART 4 66R31325 AS IN AT5708621; TOGETHER WITH AN EASEMENT OVER PART OF LOT 32 RCP 10620, PARTS 5, 6 66R31325 AS IN AT5708631; TOGETHER WITH AN EASEMENT OVER PART OF LOT 32 RCP 10620, PARTS 4, 5, 7, 8 66R31325 AS IN AT5708631; SUBJECT TO AN EASEMENT OVER PARTS 3, 9 66R31325 IN FAVOUR OF PART OF LOT 32 RCP 10620, PARTS 2, 4, 5, 7, 8, 10 66R31325 AS IN AT5708631; SUBJECT TO AN EASEMENT OVER PART 9 66R31325 IN FAVOUR OF PART OF LOT 32 RCP 10620, PARTS 2, 4, 5, 7, 8, 10 66R31325 AS IN AT5708631; CITY OF TORONTO



## **SCHEDULE “2”**

### **Addresses for Deliveries**

Any delivery made to the Monitor pursuant to this SISP shall be made to:

**DELOITTE RESTRUCTURING INC.**

Bay Adelaide East, 8 Adelaide Street West, Suite 200  
Toronto, Ontario, M5H 0A9

**Stacey Greenbaum**

Email: [sgreenbaum@deloitte.ca](mailto:sgreenbaum@deloitte.ca)

**Toni Vanderlaan**

Email: [tvanderlaan@deloitte.ca](mailto:tvanderlaan@deloitte.ca)

Deliveries pursuant to this SISP by email or by facsimile shall be deemed to be received when sent. In all other instances, deliveries made pursuant to this SISP shall be deemed to be received when delivered to the relevant address, as identified above.

*IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT  
ACT, R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRINITY RAVINE COMMUNITY INC.*

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

Proceeding commenced at TORONTO

**ORDER**

**MILLER THOMSON LLP**  
Scotia Plaza, 40 King Street West, Suite 5800  
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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF TRINITY RAVINE COMMUNITY INC.

Court File No.: CV-22-00677236-00CL

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

Proceedings commenced at Toronto

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**AFFIDAVIT OF JEREMY ANDERSON  
(Sworn July 14, 2022)**

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Proceeding commenced at TORONTO

**MOTION RECORD OF THE APPLICANT**  
(Stay Extension, Returnable July 18, 2022)

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