

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

-and-

HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.

Respondents

MOTION RECORD OF THE RECEIVER,
ROSEN GOLDBERG INC.

(Motion re: Sale Procedure - Returnable on October 30, 2017)

October 24, 2017

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TAB 1

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

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990 C. C.43, AS AMENDED**

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

**HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.**

Respondents

NOTICE OF MOTION

ROSEN GOLDBERG INC., in its capacity as receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Horseshoe Valley Lands Ltd. (“**HVL**”) and Horseshoe Ridge Homes Inc. (“**HRH**” and together with HVL, the “**Debtors**”), will make a motion to a Judge of the Commercial List, on Monday, October 30, 2017, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, in Toronto, Ontario.

PROPOSED METHOD OF HEARING: The Motion is to be heard orally.

THE MOTION IS FOR an Order:

1. Abridging the time for service and filing, and validating service, of this Notice of Motion and the Motion Record such that the Motion is properly returnable on October 30, 2017, and dispensing with further service thereof;

2. Approving the Fifth Report of the Receiver dated October 23, 2017 (the “**Fifth Report**”), and the activities and proposed activities of the Receiver described therein;
3. Approving an asset purchase agreement (the “**Stalking Horse Bid**”) with Romspen Investment Corporation (“**Romspen**”), as purchaser, of all of the right, title and interest of the Debtors in and to the Debtors’ estate, including the Remaining Property (as defined in Fifth Report and in the Stalking Horse Bid), attached as Appendix D to the Fifth Report;
4. Approving the Receiver’s proposed sale procedure for the Remaining Property, including the engagement of Cushman & Wakefield Ltd. (the “**Listing Agent**”) as the listing agent, on the terms described in the Fifth Report (the “**Sale Procedure**”);
5. Approving the Receiver’s interim statement of receipts and disbursements attached as Appendix E to the Fifth Report;
6. Sealing and treating as confidential Confidential Appendix 1 to the Fifth Report until further Order of this Honourable Court; and
7. Such further relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Background

1. Pursuant to a receivership application issued on July 22, 2016, by Romspen (the “**Receivership Proceeding**”), and an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated November 29, 2016 (as amended by Order of the Court dated December 22, 2016, and as may in the future be supplemented, amended or restated from time to time, and collectively the “**Appointment Order**”), Rosen Goldberg Inc. was appointed receiver, without security, of the assets, undertakings, and property (collectively, the “**Property**”) of the Debtors.

2. Defined terms not otherwise defined herein shall have the meaning ascribed to them in the Stalking Horse Bid or the Sale Procedure, as applicable.
3. Prior to the Receiver's appointment, HVL had been developing certain vacant lands (the "**Lands**") in the Township of Oro Medonte for residential use. HRH, an affiliate of HVL, was registered as a builder with Tarion Warranty Corporation. Pursuant to an agreement between HVL and HRH, HVL granted HRH exclusive rights to build and sell homes on the Lands.
4. Since its appointment, the Receiver has sold some of the Lands. The remaining Property of the Debtors (the "**Remaining Property**") is the subject matter of the Stalking Horse Bid.
5. Since its appointment, the Receiver has undertaken significant work with respect to the development of the Lands in order to prepare them for sale and maximize realizations.

The Stalking Horse Bid

6. Subject to the approval of the Court, the Receiver and Romspen have negotiated the Stalking Horse Bid for the Remaining Property.
7. The key provisions of the Stalking Horse Bid are set out in the Fifth Report. The Stalking Horse Bid is attached as Appendix C thereto.
8. The Stalking Horse Bid is intended to provide a "floor price" for the Purchased Assets (the Remaining Property). If the Sale Procedure does not result in a superior bid, the Stalking Horse Bid will be the Successful Bid and the Receiver will return to Court to seek approval to complete the transaction contemplated in the Stalking Horse Bid.
9. The Stalking Horse Bid is structured as a credit bid with a purchase price of \$20,000,000.00 payable by way of a substantial reduction of the secured debt owed by the Debtors to Romspen (which as of October 20, 2017, totals \$21,400,069.63).

10. The Stalking Horse Bid contemplates the Receiver paying a break fee equivalent to 1.75% of the Purchase Price in the event that a superior bid is achieved in the Sale Procedure. The break fee is equivalent to the commission payable to the Listing Agent should an Alternative Transaction be entered into that provides for the maximum commission payable to the Listing Agent.
11. The Receiver is in possession of a broker's opinion prepared by the Land Services Group of CBRE Canada ("CBRE") for the Lands dated December 21 2015, subsequently updated by CBRE on March 17, 2017 at the request Romspen (the "CBRE Opinion"). As confirmed by the CBRE Opinion, the purchase price payable under the Stalking Horse Bid is within the range of reasonable.
12. In order to avoid suppressing realizations and to preserve the integrity of the Sale Procedure, the Receiver recommends that the CBRE Opinion be sealed until such time as the Sale Procedure is complete.

The Sale Procedure

13. The Sale Procedure is designed to seek offers for the Remaining Property which are superior to the Stalking Horse Bid, by providing for a fair and transparent marketing process that will allow the Receiver to maximize realizations.
14. The Sale Procedure contemplates a two-phase process. In the first phase, Interested Parties that meet the preliminary participant requirements set out in the Sale Procedure shall be provided with access to the Data Room set up by the Receiver and the Confidential Information Memorandum in order to prepare and submit a Phase I Bid by the Phase I Bid Deadline, being 10:00 am (Eastern time) on December 8, 2017. Phase I Bidders that are determined by the Receiver to be Qualified Phase I Bidders shall be invited to participate in the second phase wherein they will be given until 10:00 am on December 15, 2017, to submit a Phase II Bid.
15. Details regarding the Sale Procedure are set out in the Fifth Report. In the Receiver's view the Sale Procedure is (i) consistent with market practice; (ii)

provides a reasonable opportunity for competing bidders to submit offers superior to the Stalking Horse Bid; (iii) enables the Receiver to maximize realization from the Purchased Assets; and (iv) is reasonable and appropriate in the circumstances.

16. If the Sale Procedure fails to produce a superior bid, the Receiver intends to seek approval of the Stalking Horse Bid.
17. In connection with the Sale Procedure, the Receiver is seeking Court approval to engage the Listing Agent.
18. Rules 1.04, 2.01, 3.02(1), 16.08 and 37 of the *Rules of Civil Procedure*.

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

1. The Fifth Report of the Receiver dated October 23, 2017; and
2. Such further and other material as counsel may advise and this Honourable Court may permit.

Date: October 24, 2017

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TO: SERVICE LIST

ROMSPEN INVESTMENT CORPORATION
Applicant

-and-

HORSESHOE VALLEY LANDS LTD.
Respondents

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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TAB 2



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.

Respondents

FIFTH REPORT OF ROSEN GOLDBERG INC.

I. INTRODUCTION

1. By Order of the Honourable Mr. Justice Newbould dated November 29, 2016 (the “**Appointment Order**”), Rosen Goldberg Inc. was appointed receiver and manager (“**Receiver**”) of all of the assets, undertakings and properties of Horseshoe Valley Lands Ltd. (“**HVL**”), acquired for or used in connection with a business carried on by HVL. A copy of the Appointment Order is attached as **Appendix A**.



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

2. The ambit of the Receiver's administration was subsequently expanded to include all of the assets, undertakings and properties of Horseshoe Ridge Homes Ltd. ("HRH") by Order of the Honourable Mr. Justice Wilton-Siegel dated December 22, 2016, a copy of which is attached as **Appendix B**.

3. HVL and HRH are hereinafter referred to, collectively, as the "**Debtors**".

II. PURPOSE OF THIS REPORT

4. The purpose of this report is to set out the factual background which should assist the Court in:

- (a) approving the Receiver's activities to date, and its proposed activities, as hereinafter described;
- (b) approving an asset purchase agreement between the Receiver and Romspen Investment Corporation ("**Romspen**") dated October 20, 2017, for the sale of the Remaining Property (hereinafter defined), which subject to the approval of this Court, would act as a stalking horse bid (the "**Stalking Horse Bid**");
- (c) approving the Receiver's proposed stalking horse process for the sale of the Remaining Property (the "**Sale Procedure**"), including the bidding procedures to be used in connection with the Sale Procedure; and
- (d) approving the Receiver's interim statement of receipts and disbursements attached as Appendix E.



III. RESTRICTIONS

5. In preparing this report, the Receiver has relied upon information from third party sources (collectively, the “**Information**”). Certain of the information contained herein may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance with respect to the Information.

IV. BACKGROUND

6. At the time of the Receiver’s appointment, HVL’s assets consisted of the following vacant lands (the “**Lands**”) in the Township of Oro-Medonte (the “**Township**”), in the vicinity of the Horseshoe Valley Resort:

- (a) 29 single family lots on the south side of Horseshoe Valley Road (the “**Single Family Lots**”);
- (b) 19 townhouse lots, located on 9 separately described legal parcels, on the south side of Horseshoe Valley Road, some of which lots are serviced and some which are unserviced (the “**Townhouse Lots**”);
- (c) 1 unserviced single family lot on the south side of Horseshoe Valley Road (the “**Unserviced Single Family Lot**”);



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INSOLVENCY & RESTRUCTURING

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- (d) 1 unserviced commercial/institutional lot on the south side of Horseshoe Valley Road (the “**Unserviced Commercial/Institutional Lot**”);
 - (e) 67 acres approved for 789 residential units on the south side of Horseshoe Valley Road (in part, “**Phase 4**” and in part, “**Phase 5**”);
 - (f) 109.9 acres zoned 50% rural agricultural and 50% environmental on the north side of Horseshoe Valley Road (“**Timber Ridge**”);
 - (g) 3.91 acres zoned for agricultural uses on the south side of Horseshoe Valley Road; and
 - (h) 52.75 acres, substantially all of which are zoned for residential development, on the north side of Horseshoe Valley Road.
7. Prior to the Receiver’s appointment, HVL had been developing the Lands for residential use. HRH, an affiliate of HVL, was registered as a builder with Tarion Warranty Corporation (“**Tarion**”). Pursuant to an agreement between HVL and HRH, HVL granted HRH exclusive rights to build and sell homes on the Lands.
8. The Appointment Order was granted upon the application of Romspen, the Debtors’ only secured creditor, who was owed in excess of \$23 million.

V. RECEIVER’S SALES ACHIEVED TO DATE

9. Pursuant to an Approval and Vesting Order of the Honourable Mr. Justice Wilton-Siegel dated February 28, 2017, the Receiver completed the sale of the Single Family Lots to First View Homes (Scarborough) Inc. on April 12, 2017, for the sale price of \$3.995 million. On closing, the Receiver took back a short-term mortgage of \$2.595 million over the Townhouse Lots (the “**VTB Mortgage**”). The VTB Mortgage has now been repaid in full.



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

10. Pursuant to two (2) separate Approval and Vesting Orders of the Honourable Mr. Justice Hainey dated August 31, 2017, on October 13, 2017, the Receiver completed the sale of the Townhouse Lots and the sale of the Unserviced Single Family Lot to Sertson Contracting Ltd. (“Sertson”) for the aggregate sale price of \$2.542 million.

11. Under the terms of the agreements of purchase sale with Sertson, the Townhouse Lots and the Unserviced Single Family were required to be conveyed on a building permit ready basis. On October 4, 2017, the Receiver’s planner appeared before Committee in Council of the Township of Oro-Medonte and obtained the requisite approvals.

12. As at October 20, 2017, the amount owing by the Debtors to Romspen was \$21,986,468.65, with per diem interest of \$6,786.01 accruing.¹ A copy of Romspen’s statement is attached as **Appendix C**.

VI. REMAINING PROPERTY TO BE SOLD

13. The Lands that remain subject to the Receiver’s administration are as follows:

- (a) the Unserviced Commercial/Institutional Lot;
- (b) Phase 4 and Phase 5;
- (c) Timber Ridge;
- (d) 3.91 acres zoned for agricultural uses on the south side of Horseshoe Valley Road; and

¹ This figure excludes unbilled legal fees and disbursements of Romspen counsel, Blaney McMurty LLP.



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- (e) 52.75 acres, substantially all of which are zoned for residential development, on the north side of Horseshoe Valley Road

(collectively, the “Remaining Property”).

VII. RECEIVER’S ACTIVITIES SINCE ITS FOURTH REPORT

14. The Receiver’s activities since its Fourth Report dated August 22, 2017 (the “Fourth Report”) have included;

- dealing with municipal planning and other issues in order to complete the sale of the Townhouse Lots and the Unserviced Single Family Lot to Sertson;
- ongoing development activities in respect to the Lands (the “Development Activities”);
- working with Romspen and its counsel to develop the proposed stalking horse sale process and Sale Procedure hereinafter described in relation to the Remaining Property;
- meeting with real estate brokers regarding their potential engagement on behalf of the Receiver in relation to the Sale Procedure;
- communicating with Jim Cooper, the Debtors’ principal, and his counsel;
- dealing with the repair of deficiencies in homes previously constructed by the Debtors;
- meeting and communicating with Tarion in relation to the repair of deficiencies and the potential return of security held by Tarion;



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INSOLVENCY & RESTRUCTURING

- ongoing consultation with the Receiver's counsel;
- ongoing communications with representatives of Romspen;
- preparing the Debtors' HST returns; and
- processing disbursements of funds and banking.

15. With regard to the Development Activities, the Receiver has worked closely with the consultants who were involved in the development of the Lands prior to the Receiver's appointment, including Carmen Fruci, who oversees the development process, Gerrits Engineering Limited, in relation to engineering services, Mer Tech Inc., in relation to engineering technical services, Azmuith Environmental Consulting Inc., environmental consultants, Rudy & Associates, municipal planners, and Dino Astri Surveying Ltd., in relation to surveying.

16. The Development Activities have encompassed:

- preparing and issuing underground certification for the Townhouse Lots to allow for issuance of building permits;
- preparing and issuing underground certification for the extension of Landscape Drive to allow for issuance of building permits for the Townhouse Lots;
- revising the extension design for the extension of Landscape Drive;
- meetings with the Township's planning and parks departments to address outstanding parkland issues;
- surveying work to address the Township's comments regarding easements;



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INSOLVENCY & RESTRUCTURING

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- preparing and submitting the first submission design for the landscape of Phase 4;
 - preparing costs estimate and bid tender documents for the landscape of Phase 4;
 - commencing tree clearing in respect of Phase 4;
 - reviewing historical storm water management modelling and updating same to current Nottawasaga Valley Conservation Authority standards;
 - preparing and submitting functional servicing report for the balance of the Remaining Property;
 - pursuing approvals for underground services for Phase 4 in conjunction with the preparing and submitting the first submission design for the landscape of Phase 4, master servicing study being conducted by the landowners' group of the Horseshoe-Craighurst corridor;
 - resubmitting a draft plan to, and ongoing communications with, the Township in order to address comments received from the Township;
 - ongoing communications with the Ministry of the Environment and Climate Change regarding interim sewage to determine targets and goals;
 - commencing preparation of a responsibility agreement with the Township with respect to the installation, construction and provision of certain works on Phase 4 and Phase 5 prior the execution of a subdivision agreement with the Township;
 - addressing a future compensation plan for endangered species in relation to Phase 5;
- and



- obtaining an extension of draft approvals for the Phase 4, Phase 5 and Timber Ridge draft plans.

VIII. STALKING HORSE BID FOR REMAINING PROPERTY

17. The terms of the Stalking Horse Bid were negotiated by the Receiver, Romspen and their respective counsel, and are summarized below. The Stalking Horse Bid is structured as a credit bid.

18. All terms not otherwise defined herein shall have the meanings as defined in the Stalking Horse Bid, a copy of which is attached as **Appendix D**.

Transaction Item	Terms
Purchase Price	\$20,000,000.00 payable in partial reduction of Romspen Secured Debt, without circulation of cash on Closing.
Allocation of Purchase Price	To be agreed to by the parties, acting reasonably, prior to the Closing.
Purchased Assets	<ul style="list-style-type: none"> • the Remaining Property; • all inventory; • all Accounts Receivable, including (i) two (2) irrevocable standby letters of credit in the total amount of \$840,000.00 posted by HRH in favour of Tarion as security for homes constructed prior to the Appointment Order, (ii) three (3) irrevocable standby letters of credit in the total amount of \$1,204,504.99 in favour of the Township posted prior to the Appointment Order; (iii) three (3) irrevocable letters of credit in favour of Hydro One totaling \$304,614.69 posted prior to the Appointment Order; and (iv) a cash deposit of \$59,848.75 posted by the Receiver with Hydro One after the Appointment Order; • all Fixtures, Chattels and Equipment;



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INSOLVENCY & RESTRUCTURING

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	<ul style="list-style-type: none"> • all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and agents or with third parties; • the Assigned Contracts, if any, and the Permitted Encumbrances; and • all other personal property not contemplated by the foregoing.
Conditions	<p>Customary insolvency transaction conditions, including that Purchased Assets will be acquired "as is where is" and:</p> <ul style="list-style-type: none"> • no Successful Bid being made or accepted by the Receiver in the Sale Procedure; • issuance of Vesting Order; • if the Receiver is not holding sufficient Surplus Funds to fully fund the Wind-Down Amount, Romspen shall deliver the amount required to satisfy the Wind-Down Estimate; • otherwise, no due diligence conditions in favour of Romspen.
Closing Date	Not less than 10 Business Days after satisfaction or waiver of conditions.
Break Fee	1.75% of the Purchase Price.
Post-Closing Shortfall on Romspen Secured Debt (if any)	Any shortfall suffered on the Romspen Secured Debt will remain owing by the Debtors and the Guarantors after the Closing Date, with Romspen reserving with all of its rights, powers, and remedies.

19. Although the Receiver did not commission an appraisal of the Remaining Property, in the Second Supplementary Report to its First Report, the Receiver referenced a broker's opinion addressed to HVL dated December 21, 2015 prepared by the Land Services Group of CBRE Canada ("CBRE"). CBRE's opinion was attached as Confidential Appendix 3 to the Receiver's Second Supplementary Report to its First Report and sealed by Order of the Honourable Mr. Justice Wilton-Siegel on January 18, 2017.



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INSOLVENCY & RESTRUCTURING

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20. Romspen subsequently commissioned an updated broker's opinion from CBRE dated March 17, 2017 (the "CBRE Opinion"), a copy of which was attached as a confidential appendix to the Fourth Report and ordered sealed by the Honourable Mr. Justice Hainey on August 31, 2017. A copy of the CBRE Opinion is attached to this Fifth Report as **Confidential Appendix 1**.
21. As compared to the CBRE Opinion, the Purchase Price payable under the Stalking Horse Bid is within the range of reasonable.
22. The Sale Procedure is intended to provide for a fair and transparent marketing process that will allow the Receiver to maximize realizations by eliciting Superior Bids for the Remaining Property. The Stalking Horse Bid sets a "floor price" for the Remaining Property and provides certainty that there will be a new owner regardless of the outcome of the Sale Procedure.
23. The Receiver, after consulting with counsel for Jim Cooper, the Debtors' principal and a guarantor of the Romspen Secured Debt, determined that a qualified real estate agent should be engaged to assist in carrying out the Sale Procedure. The Receiver met with Jason Child, Vice President of CBRE, who had acted as the listing agent of the Lands prior to the Receiver's appointment, and Peter DeGuerre, Senior Vice President of Cushman & Wakefield Ltd. ("**Cushman**").
24. Both agents submitted proposals to the Receiver for consideration. Although the Receiver considers both agents to be well qualified, the Receiver elected to engage Cushman as Cushman would bring a fresh approach to marketing and selling the Remaining Property. Cushman's fee includes signage, marketing material, data room creation and other required documentation.



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25. Cushman's mandate will include:

- advertising the Remaining Property on MLS and on its website;
- preparing and disseminating a preliminary information memorandum ("PIM") to its extensive client database and posting the PIM on its website.
- preparing a confidential information memorandum ("CIM"), including third party reports;
- making the CIM available online, with printed copies available upon request;
- creating a secure online data room to be utilized for reporting and buyer due diligence purposes;
- delivering pertinent information and available reports to interested buyers; and
- placing multiple advertisements in the *The Globe and Mail, Report on Business* section and the *National Post, Financial Post* section.

26. Cushman has agreed that if no Superior Bid is achieved in the Sale Procedure, upon the completion of the Stalking Horse Bid it will be paid a flat fee of \$35,000, plus HST.² If, however, a superior bid is completed with no co-operating broker, Cushman will charge a flat fee of 1.25% of the sale price. Moreover, if a co-operating broker is involved, upon completion of a Superior Bid, a flat fee of 1.75% will be charged, to be shared on a 1%/0.75% basis between Cushman and the co-operating broker.

² The flat fee quoted by CBRE was slightly higher.



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27. The Receiver considers Cushman's proposed fee formula to be reasonable. It creates a sufficient financial incentive for Cushman to pursue Superior Bids. On the other hand, it is not so high as to materially impinge recoveries and will not have the effect of imposing an overbid requirement which so high as to deter prospective purchasers from participating in the Sale Procedure.

IX. PROPOSED SALE PROCEDURE

28. The Sale Procedure is summarized below. All terms not otherwise defined herein shall have the meanings as defined in the Sale Procedure annexed as Schedule "F" to the Stalking Horse Bid.

SUMMARY OF PROPOSED SALE PROCEDURE	
Phase I	<p>Interested Parties who execute a Confidentiality Agreement and an Acknowledgement of Sale Procedure to be provided Confidential Information Memorandum and access to additional confidential information in Confidential Data Room in order to prepare and submit Phase I Bid.</p> <p>Only Qualified Phase I Bidders shall be allowed to participate in Phase II of the Sale Procedure. To qualify as a Qualified Phase I Bidder, the Interested Party must provide, in form and substance satisfactory to the Receiver, <i>inter alia</i>, the following on or before the Phase I Bid Deadline:</p> <ul style="list-style-type: none"> • executed non-binding indication of interest satisfactory to the Receiver that must reasonably identify the proposed purchase price and conditions precedent to closing; and • written evidence upon which the Receiver may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction.
Phase I Bid Deadline	10:00 a.m. (Eastern time) on December 8, 2017



ROSEN GOLDBERG
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Phase II Bid Requirements	<p>Phase II Bids:</p> <ul style="list-style-type: none"> • must be submitted in the form of a Modified APA together with a blackline of the Modified APA against the Stalking Horse Bid, and a written, binding commitment to close on the terms and conditions set forth therein; • be irrevocable until 4:00 p.m. (Eastern time) on December 15, 2017; • may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies, terms and conditions associated with a Phase II Bid may not, in aggregate, be more burdensome than those set forth in the Stalking Horse Bid; • must be accompanied by written evidence of a commitment for financing or other evidence of the ability to consummate the transaction satisfactory to the Receiver and appropriate contact information for such financing sources must be provided; • may not request or entitle the Qualified Phase II Bidder to any break-up fee, expense reimbursement or similar type of payment; • must be accompanied by a Good Faith Deposit equal to five (5) percent of the total purchase price contemplated under the Modified APA that shall be paid to the Receiver by wire transfer or banker's draft, to be held by the Receiver in trust; and • the purchase price payable must exceed the sum of the Purchase Price under the Stalking Horse Bid and the Break Fee.
Phase II Bid Deadline	10:00 a.m. (Eastern time) on December 15, 2017

29. The Receiver intends to seek approval of the Stalking Horse Bid if the Sale Procedure does not result in a Successful Bid other than the Stalking Horse Bid.



ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

30. In the Receiver's view, the Sale Procedure:

- is consistent with market practice;
- provides a reasonable opportunity for competing bidders to submit offers superior to the Stalking Horse Bid;
- will enable the Receiver to maximize realizations from the Purchased Assets in a timely manner; and
- is reasonable and appropriate in the circumstances.

X. RECEIPTS AND DISBURSEMENTS

31. The Receiver's interim statement of receipts and disbursements for the period November 29, 2016 to October 20, 2017 is attached as **Appendix E**

XI. RECOMMENDATIONS

32. On the basis of the foregoing, the Receiver recommends that this Honourable Court approve the recommendations set out in paragraph 4 of the within Fifth Report.

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 23rd day of October, 2017.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER AND MANAGER OF
THE ASSETS OF HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.**

APPENDIX A

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 29TH
JUSTICE *NEUBOLD*) DAY OF NOVEMBER, 2016
)

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

HORSESHOE VALLEY LANDS LTD.

Respondent



APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended,
and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

ORDER
(appointing Receiver)

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing Rosen Goldberg Inc. as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Horseshoe Valley Lands Ltd. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Mark Hilson sworn July 22, 2016 (the "First Hilson Affidavit") and the Exhibits thereto, the supplementary affidavit of Mark Hilson sworn November 15, 2016 (the "Second Hilson Affidavit") and the Exhibits thereto, including the

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consent to the within application executed by the Debtor's lawyer, as set out at Exhibit "A" to the Second Hilson Affidavit, the affidavit of Jim Cooper sworn November 16, 2016 and the exhibits thereto, the Affidavit of Bill Ulicki sworn November 21, 2016 and the exhibits thereto, and the affidavit of Paul Grespan sworn November 25, 2016, and the exhibit thereto, and on hearing the submissions of counsel for the Applicant, counsel for the Debtor, and counsel for Lotco Limited, no one else appearing for any other person on the service list, although properly served with the Supplementary Application Record as appears from the affidavit of Patricia Keane sworn November 15, 2016, filed, and the Second Supplementary Application Record as appears from the affidavit of Patricia Keane sworn November 25, 2016, and on reading the consent of Rosen Goldberg Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application, the Application Record dated July 22, 2016, and the Supplementary Application Record dated November 15, 2016 is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Rosen Goldberg Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;

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- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to make an assignment into bankruptcy on behalf of the Debtor;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and,
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

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- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate

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access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor 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 Debtor 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 Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in

respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). 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 Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver 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 (collectively, the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or

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anything done in pursuance of the Receiver'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.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

24. 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->

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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 http://www.rosengoldberg.com/company-files.php?company_id=30.

25. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

26. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

28. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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29. THIS COURT ORDERS that the Receiver 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 Receiver 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.

30. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 29 2016

PER / PAR: 

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number ___-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____. being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

[RECEIVER'S NAME], solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

ROMSPEN INVESTMENT CORPORATION
Applicant

- and -

Court File No. CV-16-11468-00CL
HORSESHOE VALLEY LANDS LTD.
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(appointing receiver)

BLANEY MCMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSUC #38239M)
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Lawyers for the Applicant

APPENDIX B

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) THURSDAY, THE 22nd
)
JUSTICE WILTON-SIEGEL) DAY OF DECEMBER, 2016

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.

Respondents

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended,
and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

ORDER
(To Amend the Receivership Order)

THIS MOTION made by the Applicant for an Order amending the Receivership Order of Justice Newbould dated November 29, 2016 (the "Receivership Order") to add Horseshoe Ridge Homes Inc. ("HRH") as a debtor over whose assets, undertakings and properties Rosen Goldberg Inc. has been appointed as receiver and manager (the "Receiver"), or in the alternative appointing the Receiver as receiver and manager over HRH's assets undertakings and properties, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver, the Affidavit of Bill Ulicki sworn December 16, 2016 and the Exhibits thereto, and the consent of HRH, and on hearing the submissions of counsel for the Applicant and counsel for HRH, no one else appearing for any other person on the service list, although properly served with the motion record as appears from the affidavit of Beverly Rusk sworn December 19, 2016, filed,

1. **THIS COURT ORDERS** that the first preamble to the Receivership Order be amended by removing the words “(the “**Debtor**”)” and inserting in their place the words “(“**HVL**”) and Horseshoe Ridge Homes Inc. (“**HRH**”) (collectively, the “**Debtor**”)”.
2. **THIS COURT ORDERS** that paragraph 2 of the Receivership Order shall be amended and restated to read as follows:

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Rosen Goldberg Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of HVL (as of November 29, 2016), and HRH (as of December 22, 2016), acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”).

Gu. Khan - hml J.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

DEC 22 2016

PER / PAR: *q*

KOMPEN INVESTMENT CORPORATION

Court File No. CV-16-11468-00CL
and HORSESHOE VALLEY LANDS LTD. et al.

Applicant

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

ORDER
(To Amend the Receivership Order)

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Lawyers for the Applicant

APPENDIX C

ACCOUNT STATEMENT



ACCOUNT NO.	8013
STATEMENT DATE	10/20/2017

ACCOUNT INFORMATION

Total Amount Due * \$21,986,468.65
Effective Date 10/20/2017

Interest accrues at \$6,786.01 per day. This notice expires on at 1:00 p.m. on 10/31/2017, at which time you are instructed to contact this office for additional instructions.

Property:

Horseshoe Valley Resort, Oro Medonte, ON

BORROWER

Horseshoe Valley Lands Ltd.
1101 Horseshoe Valley Road West
P.O. Box 50, R.R. # 1
Barrie, ON L4M 4Y8

ACCOUNT DETAILS

Date	Description	Charges	Credits	Balance
10/20/2017	Principal balance #8013	\$16,177,901.99		\$16,177,901.99
10/20/2017	Principal balance #80131 (Tarion L/C)	\$680,000.00		\$16,857,901.99
10/20/2017	Principal balance #80132 (Tarion L/C)	\$180,000.00		\$17,037,901.99
10/20/2017	Principal balance #80133 (Hydro One L/C)	\$320,295.03		\$17,358,197.02
10/20/2017	Interest to and incl. 10/20/2017 #8013	\$3,840,172.97		\$21,198,369.99
10/20/2017	Interest to and incl. 10/20/2017 #80131	\$73,700.59		\$21,272,070.58
10/20/2017	Interest to and incl. 10/20/2017 #80132	\$19,508.98		\$21,291,579.56
10/20/2017	Interest to and incl. 10/20/2017 #80133	\$45,877.57		\$21,337,457.13
10/20/2017	Interest penalty (3 month's interest for #8013)	\$647,599.02		\$21,985,056.15
10/20/2017	Statement fees	\$1,412.50		\$21,986,468.65

*PLUS ANY UNBILLED LEGAL FEES AND DISBURSEMENTS.

THE AMOUNT DUE ASSUMES NO FURTHER ACTIVITY ON THE MORTGAGE ACCOUNT AND NO FURTHER EXPENSES AND/OR FEES ARE INCURRED PRIOR TO THE REPAYMENT DATE.

Yours truly,
ROMSPEN INVESTMENT CORPORATION
PER:

Mary Gianfriddo
Vice-President, Mortgage Administration

E. & O. E.
HST Registration No. 135897494

APPENDIX D

EXECUTION COPY

ROSEN GOLDBERG INC., solely in its capacity as court-appointed receiver and manager of the assets, property and undertaking of Horseshoe Valley Lands Ltd. and Horseshoe Ridge Homes Inc., and not in its personal capacity and without personal or corporate liability (the "Vendor" or "Receiver")

- and -

ROMSPEN INVESTMENT CORPORATION, a company governed by the Laws of Ontario, or its designee(s) (the "Purchaser")

ASSET PURCHASE AGREEMENT

October 20, 2017

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THIS ASSET PURCHASE AGREEMENT is made this 20th day of October, 2017

BETWEEN:

ROSEN GOLDBERG INC., solely in its capacity as court-appointed receiver and manager of the assets, property and undertaking of Horseshoe Valley Lands Ltd. and Horseshoe Ridge Homes Inc. and not in its personal capacity and without personal or corporate liability

(the "Vendor" or "Receiver")

- and -

ROMSPEN INVESTMENT CORPORATION, a company governed by the Laws of Ontario, or its designee(s)

(the "Purchaser")

RECITALS:

A. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated November 29, 2016 (as amended by order of the Court dated December 22, 2016, and as may in the future be supplemented, amended or restated from time to time, and collectively the "Appointment Order"), the Receiver was appointed receiver and manager, without security, of the assets, property and undertaking-(collectively, the "Property") of each of Horseshoe Valley Lands Ltd ("HVL") and Horseshoe Ridge Homes Inc. ("HRH", and with HVL collectively, the "Debtors");

B. At the time of the making of the Appointment Order, HVL's real property consisted of vacant lands in the Township of Oro-Medonte, in the vicinity of the Horseshoe Valley Resort (the "Lands") which were being developed for residential use by HVL (the "Project"). The Lands were comprised of :

- (a) 29 single family lots, on the south side of Horseshoe Valley Road (the "29 Single Family Lots");
- (b) 19 townhouse lots on 9 separately described legal parcels on the south side of Horseshoe Valley Road, 9 of which lots are serviced and 11 of which are unserviced (the "Townhouse Lots");
- (c) 1 unserviced single family lot on the south side of Horseshoe Valley Road (the "1 Unserved Single Family Lot");
- (d) 1 unserviced commercial/institutional lot on the south side of Horseshoe Valley Road;
- (e) 67 acres approved for 789 residential units on the south side of Horseshoe Valley Road;
- (f) 109.9 acres zoned 50% rural agricultural and 50% environmental on the north side of Horseshoe Valley Road;
- (g) 3.91 acres zoned for agricultural uses on the south side of Horseshoe Valley Road; and
- (h) 52.75 acres, substantially all of which are zoned for residential development, on the north side of Horseshoe Valley Road;

C. HVL marketed the Lands for sale through HRH;

D. The Appointment Order authorizes the Receiver to market any or all of the Property, including advertising and soliciting offers in respect of the Property, or any part or parts thereof and to negotiate such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

E. By way of Order of Justice Wilton-Siegel of the Court dated February 28, 2017, the Court approved a sale transaction for the 29 Single Family Lots;

F. By way of the Order of Justice Newbould of the Court dated March 14, 2017, the agreements of purchase and sale for the Townhouse Lots entered into by HRH were disclaimed, and a marketing and sales process for the Townhouse Lots was approved;

G. By way of Order of Justice Morawetz of the Court made August 14, 2017, the Court authorized the Receiver to distribute to Romspen proceeds of sale of the 29 Single Family Lots;

H. By way of Order of Justice Hainey of the Court made August 31, 2017, the Court authorized the Receiver to distribute to Romspen the net proceeds of sale of the Townhouse Lots and the 1 Unserviced Single Family Lot (which the Receiver sold in the course of the marketing and sales process for the Townhouse Lots);

I. The Property, excluding the 29 Single Family Lots, the Townhouse Lots and the 1 Unserviced Single Family Lot, comprises the "**Remaining Property**";

J. The Purchaser has agreed to act as a "stalking horse bidder" by way of a credit bid in connection with the sale of all of the right, title and interest of the Debtors in and to the Remaining Property, meaning that, in the absence of the Receiver's acceptance of a bid for the Purchased Assets (as defined below) made in accordance with the Sale Procedure (as defined below) which is superior to this Agreement (as determined by the Receiver in accordance with the Sale Procedure), the Purchaser has agreed to purchase on an "as is, where is" basis all of the right, title and interest of the Debtors in and to the Purchased Assets on the terms and subject to the conditions set forth in this Agreement, in accordance with the Sale Procedure (as defined below) and subject to obtaining the Vesting Order (as defined below);

K. The Receiver intends to seek the Sale Procedure Order (as defined below) authorizing and directing the Receiver to enter into this Agreement and carry out the Sale Procedure.

NOW THEREFORE for good and valuable consideration, the adequacy and receipt whereof is hereby acknowledged, the Parties covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, including the schedules to this Agreement, the following words and terms shall have the meanings set out below:

"**Acceptance Date**" means the date this Agreement is executed and delivered by both the Vendor and the Purchaser;

"**Accounts Receivable**" means all accounts receivables, trade receivables, bills receivable, trade accounts, book debts, note receivables, rebates, refunds, deposits and/or securities given by either or both of the Debtors (whether currently refundable or refundable in the future) to any Governmental Authorities, and other receivables of either or both of the Debtors, whether current or overdue, with all interest accrued on such items, and includes but is not limited to any and all refund(s) due in respect of (i) two irrevocable standby letters of credit in the total amount of \$840,000.00 posted by HRH in favour of Tarion Warranty Corporation as security for homes constructed prior to the Appointment Order, (ii) three irrevocable standby letters of credit in the total amount of \$1,204,504.99 (122,759.99, \$287,057 and \$794,688) posted by HVL in favour of the Township of Oro-Medonte as security for each phase of development of the Project as per subdivision agreements executed per phase, posted prior to the Appointment Order; (iii) three irrevocable letters of credit posted by HVL in favour of Hydro One totaling \$304,614.69 posted prior to the Appointment Order, and a cash deposit \$59,848.75 posted by the Receiver with Hydro One on behalf of HVL after the Appointment Order;

"**Administration Charge**" means the Receiver's Charge as defined in paragraph 17 of the Appointment Order and used therein;

"Agreement" means this stalking horse credit bid agreement executed by the Purchaser and accepted by the Vendor, including all schedules, and all amendments or restatements, and references to **"Article"**, **"Section"** or **"Schedule"** mean the specified Article or Section of, or Schedule to, this Agreement;

"Alternative Transaction" has the meaning given in Section 7.2(c);

"Ancillary Agreements" means, collectively, assignment and assumption agreements, and such other agreements, documents, assignments, or instruments of transfer and conveyance reasonably satisfactory in form and substance to the Purchaser and the Receiver, none of which shall contain any representations or warranties of the Receiver except for those provided herein;

"Appointment Date" means November 29, 2016 with respect to HVL and December 22, 2016, with respect to HRH;

"Appointment Order" has the meaning given in the Recitals;

"Assigned Contracts" means those Contracts, which are not Excluded Contracts, for which no consent to assignment is required or where consent to assignment is required such consent has been obtained;

"Assumed Liabilities" has the meaning given in Section 2.3;

"Back-Up Bid" has the meaning given in the Sale Procedure;

"Bill of Sale" means one or more bills of sale duly executed by the Receiver in respect of the personal property forming part of the Purchased Assets; none of which shall contain any representations or warranties of the Receiver except for those provided herein;

"Books and Records" means, collectively, the books and records of the Debtors relating to the Purchased Assets, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, business reports, plans and projections and all other documents, surveys, plans, files, records, assessments, correspondence and other data and information, financial or otherwise, including all data, information and databases stored on computer-related or other electronic media;

"Break Fee" has the meaning set out in section 7.2(c);

"Buildings" means any and all buildings and improvements of every nature and kind situate in, on and/or over the Lands included in the Remaining Property;

"Business" means the business of owning, operating, marketing, developing and selling the Lands, carrying out the Project, and all such other commercial activities incidental and ancillary thereto;

"Business Day" means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario;

"Claims" includes claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions or other similar processes;

"Closing" means the completion of the Transaction;

"Closing Certificate" has the meaning given in Section 8.5;

"Closing Date" means the date on which the Closing occurs as set forth in Section 6.1(a);

"Closing Time" has the meaning given in Section 6.1(b);

"Consent" means any approval, authorization, consent, Order, license, permission, permit (including any environmental permit), qualification, exemption or waiver by any Governmental Authority or other Person;

"Contract Notice Date" has the meaning given in Section 2.4(a);

"Contracts" means the contracts, licences, leases, agreements, arrangements, documents, commitments, entitlements or engagements to which either or both of the Debtors is a party or by which any such Debtor or Debtors is bound, as more particularly set out in Schedule "A" hereto;

"Court" has the meaning given in the Recitals;

"Credit Agreement" means a mortgage loan commitment letter dated as of September 14, 2011, as amended by supplement No. 1 dated April 11, 2013, and as further amended by supplement No. 2 dated May 24, 2014, whereby Romspen Investment Corporation, as Trustee ("**Romspen**") agreed to make a loan to HVL in the maximum principal amount of \$26,000,000.00 (the "**Loan**"), which Credit Agreement was amended by way of an extension agreement made as of January 7, 2016, between Romspen as lender, HVL as borrower, and Horseshoe R.E. Management Inc., Horseshoe Lands Development Corporation, 1466832 Ontario Inc., Horseshoe Valley Limited Partnership IV, Horseshoe Valley Limited Partnership, South Tremin Investments Inc., Julie Boville, James Carl Cooper and HRH as covenantors (collectively, the "**Guarantors**"), at which time HVL's indebtedness under the Loan was \$19,605,092.49;

"Credit Agreement Bid Amount" means the portion of the Romspen Secured Debt equal to \$20,000,000.00, less (i) the Receiver's Certificate Obligations owing to the Purchaser as of the Closing Date, if any, but plus (ii) the Surplus Funds as defined below;

"Credit Bid Amount" means the amount representing the Credit Agreement Bid Amount, plus (i) the amount of the Receiver's Certificate Obligations owing to the Purchaser as of the Closing Date, if any, and less (ii) the Surplus Funds;

"Debtors" means collectively, HVL and HRH;

"Encumbrance" means any mortgage, charge, the Receiver's Borrowings Charge, the Administration Charge, construction or builder's lien, assignment by way of security, pledge, hypothec, security interest, lien (statutory or otherwise), conditional sales contract or other title retention agreement, trust, deemed or statutory trust, judgment, execution, writ, debenture, levy, financial or monetary claim, encumbrance, adverse claim or interest, exception, reservation, easement, right of way, encroachment, servitude, restrictions on use, any right of occupancy, any right or claim of specific performance, any matter capable of registration against title, option, right of first refusal or similar right, right of pre-emption or privilege or any contract creating any of the foregoing, and any other encumbrance, interest or instrument charging, or creating a security interest in, the Purchased Assets or any part thereof or interest therein, but shall not include the Permitted Encumbrances;

"Environmental Law" means any and all applicable international, federal, provincial, state, municipal or local laws, by-laws, statues, regulations, treaties, orders, judgments, decrees, ordinances, official directives and all authorizations relating to the environmental occupational health and safety, health protection or Hazardous Materials;

"Excluded Assets" means the assets listed in Schedule B hereto;

"Excluded Contracts" means any contracts, licences, leases, agreements, arrangements, documents, commitments, entitlements or engagements to which either or both of the Debtors is a party or by which any such Debtor or Debtors is bound that are not Contracts;

"Fixtures, Chattels and Equipment" means the right, title and interest of either or both of the Debtors to all fixtures, chattels, equipment and other items which are owned by one or both of Debtors and/or situate upon the Lands, but excluding the Excluded Assets and any such items owned by licensees or independent contractors, engaged in respect of the operation of the Remaining Property;

"Governmental Authorities" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, public utilities, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state or other geographic or political subdivision thereof, over part or all of the Purchased Assets, the transaction

contemplated in this Agreement and/or one or both of the parties hereto and shall include a board or association of insurance underwriters; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power over part or all of the Purchased Assets, the transaction contemplated in this Agreement and/or one or both of the parties hereto and shall include a board or association of insurance underwriters;

"**Guarantors**" has the meaning set out in the definition of Credit Agreement above;

"**Hazardous Materials**" means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation, to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority, and any "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "hazardous wastes", "industrial wastes", "liquid wastes", "pollutants" and "toxic substances", all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental health and/or safety matters and, not to limit the generality of the foregoing, includes asbestos, urea formaldehyde foam insulation and mono-or poly-chlorinated biphenyl wastes;

"**HVL**" means Horseshoe Valley Lands Ltd.;

"**HRH**" means Horseshoe Ridge Homes Inc.;

"**Lands**" has the meaning set out in the Recitals;

"**Land Registry Office**" means the Land Titles Division of the Simcoe Land Registry Office (No. 51);

"**Laws**" means currently existing applicable statutes, by-laws, rules, regulations, Orders, ordinances or judgments, in each case of any Governmental Authority having the force of law;

"**Mortgage**" means a Charge/Mortgage securing the principal sum of \$5,000,000.00 from HVL in favour of Romspen registered on title to the Lands in the Land Registry Office on May 13, 2010, as Instrument No. SC819690, as amended and restated by a Restated Charge/Mortgage securing the principal sum of \$10,000,000.00 registered on title to the Lands in the Land Registry Office on November 1, 2011 as Instrument No. SC942146, as further amended and restated by a Restated Charge/Mortgage securing the principal sum of \$13,700,000.00 registered on title to the Lands in the Land Registry Office on May 3, 2013, as Instrument No. SC1054837, as further amended and restated by a Restated Charge/Mortgage securing the principal sum of \$26,000,000.00 registered on title to the Lands in the Land Registry office on July 29, 2014, as Instrument No. SC1148135, as further amended and restated by a Restated Charge/Mortgage securing the sum of \$26,000,000.00 registered on title to the Lands in the Land Registry Office on February 12, 2016, as Instrument No. SC1282555, as set out in Schedule "E" attached hereto, over certain real property described in Schedule "C" attached hereto;

"**Order**" means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority;

"**Ordinary Course of Business**" means the ordinary and usual course of the routine daily affairs of the Business consistent with past practice;

"**Outside Date**" means December 23, 2017, or such later date as agreed to by the Parties;

"**Parties**" means the Receiver and the Purchaser, collectively, and "**Party**" means any one of them;

"**Permitted Encumbrances**" means those Encumbrances which are identified in Schedule "D" hereto;

"**Person**" means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;

"Priority Claims" means any valid statutory claims or portion thereof that are determined to rank in priority to the Romspen Secured Debt, including without limitation, (a) any source deduction claim in favour of any Governmental Authority, including the Canada Revenue Agency arising from the failure to deduct, withhold or remit any Taxes, (b) any claim in favour of an employee pursuant to section 81.4 of the *Bankruptcy and Insolvency Act* (Canada), (c) any claim for amounts owing under the *Excise Tax Act* (Canada) (for greater certainty, solely to the extent any such claim is determined to rank in priority to the Romspen Secured Debt), and (d) any claims for realty taxes;

"Project" has the meaning given to it in Recitals;

"Property" has the meaning given in the Recitals, and includes the Lands, Accounts Receivables, and any Fixtures, Chattels and Equipment;

"Purchase Price" has the meaning given in Section 2.5;

"Purchaser" means Romspen and its successors and permitted assigns;

"Purchased Assets" means all of the right, title and interest of the Debtors, in and to the tangible and intangible properties, assets, interests, rights and claims related to the Remaining Property and/or the Business, wherever located, as of the Closing Date, including without limitation the following assets, if any:

- (a) the Real Property;
- (b) all inventory of one or both of the Debtors;
- (c) all Accounts Receivable;
- (d) all Fixtures, Chattels and Equipment;
- (e) all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and agents or with third parties;
- (f) the Assigned Contracts, if any, and the Permitted Encumbrances; and
- (g) all other personal property not contemplated by the foregoing,

but excluding the Excluded Assets;

"Real Property" means, collectively, the Lands and the Buildings thereon forming part of the Remaining Property, which Lands are described in Schedule "C" hereto, and all other real property and rights in real property included in the Remaining Property;

"Receiver" means Rosen Goldberg Inc., in its capacity as court-appointed receiver and manager of the Property and not in its personal or corporate capacity;

"Receiver's Borrowings Charge" has the meaning given in paragraph 20 of the Appointment Order and as used therein;

"Receiver's Certificate Obligations" means all outstanding obligations of any kind pursuant to the Receiver's Certificate, and secured by the Receiver's Borrowings Charge;

"Receiver's Certificate" has the meaning given in Paragraph 22 of the Appointment Order and used therein;

"Receiver's Website" means http://www.rosengoldberg.com/company-files.php?company_id=30;

"Receivership Proceeding" means the receivership proceeding with respect to the Debtors commenced by the Appointment Order;

"Remaining Property" has the meaning given in the Recitals;

"Romspen" means Romspen Investment Corporation;

"Romspen Secured Debt" means \$21,986,468.65 as of October 20, 2017, which represents the debt outstanding and interest accrued under the Credit Agreement as of that date (excluding the unbilled legal fees and disbursements of Blaney McMurty LLP as of October 20, 2017), together with interest that shall continue to accrue from and after that date, all other costs, expenses and charges and other amounts recoverable by Romspen under the terms of the Credit Agreement, but excludes the fees of the Receiver and its counsel, and any and all other fees and costs incurred and/or paid by the Receiver and/or its counsel;

"Sale Motion" means a motion by the Receiver seeking, *inter alia*, approval of the execution of this Agreement and the approval of the Sale Procedure;

"Sale Procedure" means the sale procedure approved by the Court substantially in the form attached hereto as Schedule "F" hereto, authorizing the Receiver to enter into this Agreement, approving the sale of the Purchased Assets to the Purchaser as contemplated by this Agreement and, in particular, the Purchase Price, as a baseline or "stalking horse" bid, and setting out the terms and conditions of a timetable for a sale process (the **"Sale Process"**) with respect to the Purchased Assets, with such amendments as are satisfactory to the Receiver and Purchaser acting reasonably;

"Sale Procedure Order" means an order of the Court substantially in the form attached as Schedule "G" hereto;

"Security" means, collectively, (i) the security listed in Schedule "E" hereto; and (ii) the Receiver's Borrowings Charge, as defined in the Appointment Order;

"Stalking Horse Approval Terms" means the terms of the Stalking Horse Bid approved by the Court pursuant to the Sale Procedure Order;

"Statement Delivery Date" has the meaning given to it in the Vesting Order;

"Successful Bid" has the meaning given to it in the Sale Procedure;

"Successful Bidder" has the meaning given to it in the Sale Procedure;

"Surplus Funds" means any and all surplus funds held by the Receiver in respect of the Receivership of the Debtors as of the Closing Date;

"Tax" and **"Taxes"** includes any taxes, duties, fees, premiums, assessments, levies and other charges of any kind whatsoever imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, excise, withholding, business, franchising, property, development, occupancy, payroll, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, and other government pension plan premiums or contributions;

"Title Direction" means a written direction from the Purchaser calling for and directing title to the Purchased Assets to be transferred to the Purchaser or one or more designees;

"Transaction" means the purchase and sale of all of the Purchased Assets;

"Transfer/Deed" means one or more transfers/deeds in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver (or deemed to be executed through electronic signature) as contemplated under the Vesting Order; none of which shall contain any representations or warranties of the Receiver except for those provided herein;

"Transfer Taxes" has the meaning given in Section 8.2(c);

"Vesting Order" means the Order of the Court approving the sale by the Receiver to the Purchaser of the Purchased Assets, and vesting all right, title and interest of the Receiver and the Debtors, free and clear of all Encumbrances (other than Permitted Encumbrances), substantially in the form attached hereto as Schedule "H", with such amendments as are satisfactory to the Receiver and Purchaser acting reasonably.

"Vesting Order Motion" means a motion by the Receiver seeking the granting of the Vesting Order;

"Wind-Down Amount" means an amount necessary to fund: (a) all accrued but unpaid fees and disbursements of the Receiver and its counsel subject to the Administration Charge as at the Closing Date, and (b) the costs to wind down and complete the Receivership Proceeding after the Closing Date, which amount shall be subject to the Administration Charge; and

"Wind-Down Estimate" means an estimate to be prepared by the Receiver and delivered to the Purchaser of the Wind-Down Amount.

1.2 Certain Rules of Interpretation

In this Agreement:

- (a) **Currency** — All references to money amounts are to lawful currency of Canada;
- (b) **Governing Law** — This Agreement is a contract made under and shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable in the Province of Ontario;
- (c) **Headings** — Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) **Including** — Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation";
- (e) **No Strict Construction** — The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party;
- (f) **Number and Gender** — Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders;
- (g) **Severability** — If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances; and
- (h) **Time Periods** — Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

1.3 Entire Agreement

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the Parties relating to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations,

conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and the Purchaser shall acquire all right, title and interest of the Debtors, in and to the Purchased Assets on an as is and where is basis. Any cost estimates, projections or other predictions contained or referred to in any other material that has been provided to the Purchaser or any of its affiliates, subsidiaries, agents or representatives are not and shall not be deemed to be representations or warranties of the Receiver or any of its affiliates, subsidiaries, agents, employees or representatives.

1.4 Schedules

The schedules to this Agreement, listed below, are an integral part of this Agreement:

SCHEDULE A CONTRACTS

SCHEDULE B EXCLUDED ASSETS

SCHEDULE C LEGAL DESCRIPTION

SCHEDULE D PERMITTED ENCUMBRANCES

SCHEDULE E SECURITY

SCHEDULE F SALE PROCEDURE

SCHEDULE G SALE PROCEDURE ORDER

SCHEDULE H VESTING ORDER

SCHEDULE I ASSUMED LIABILITIES

SCHEDULE J GST/HST NUMBERS OF DEBTORS

ARTICLE 2 PURCHASE AND SALE

2.1 Purchase and Sale of Purchased Assets

On the Closing Date, subject to the terms and conditions of this Agreement, the Receiver shall transfer, sell, convey, and assign unto the Purchaser or its designee(s) all right, title and interest of the Debtors in and to the Remaining Property and the Purchaser or its designee(s) shall acquire and accept the Purchased Assets pursuant to the Vesting Order, free and clear of all Encumbrances other than the Permitted Encumbrances.

2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any of the Excluded Assets and nothing herein shall be deemed to sell, transfer, assign or convey the Excluded Assets.

2.3 Assumed Liabilities

The Purchaser shall assume as of 12:01 a.m. (Toronto time) on the Closing Date, and shall pay, discharge and perform, as the case may be, the liabilities and obligations listed on Schedule I (collectively, the "Assumed Liabilities").

Other than the Assumed Liabilities and the Permitted Encumbrances, the Purchaser shall not assume and shall not be liable for any liabilities or obligations either or both of the Debtors of any nature whatsoever, whether present or future, known or unknown, absolute or contingent, and whether or not relating to the

Business and the Remaining Property, including without limitation, any Encumbrances, and any liabilities related to any active or inactive litigation involving either or both of the Debtors or their current or former employees.

2.4 Assignment and Assumption of Contracts

(a) The Purchaser covenants to the Receiver that, no later than ten (10) Business Days prior to the return date of the Vesting Order Motion, the Purchaser shall advise the Receiver in writing as to which Contracts shall be Excluded Contracts (the "Contract Notice Date"). At any time on or prior to the Contract Notice Date, the Purchaser may elect to exclude any Contracts from the Purchased Assets, and add such Contracts to the Excluded Contracts list by giving written notice to the Receiver of its intention to do so. For greater certainty any exclusion of Contracts pursuant to this Section 2.4 shall not affect the Purchase Price.

(b) The Assigned Contracts shall form part of the Purchased Assets assigned and transferred to the Purchaser or its designee(s) at or after Closing, the consideration for which is included in the Purchase Price. The Purchaser will assume and agree to perform and discharge the Assumed Liabilities under the Assigned Contracts pursuant to this Agreement and the applicable Ancillary Agreements.

(c) At or prior to Closing, the Receiver and the Purchaser shall use commercially reasonable efforts to obtain all necessary Consents to assign the Contracts (other than the Excluded Contracts) to the Purchaser. In the event that any Consent is not obtained by the Closing, the Receiver will co-operate with the Purchaser in any reasonable and lawful arrangements designed to provide the benefits of such Contracts to the Purchaser, including assisting the Purchaser in attempting to obtain any such Consent after Closing for a period of four (4) weeks following Closing, provided that pursuant to such arrangements the Purchaser agrees to pay and fully indemnify the Receiver for all costs (including any fees and disbursements of the Receiver and its legal counsel), obligations or liabilities incurred thereunder or in connection therewith.

(d) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Contract, to the extent such Contract is not assignable under applicable Law without the consent of any other Person party thereto where the Consent of such Person has not been given or received.

(e) For greater certainty, if any necessary Consent is required to assign a Contract but not obtained, neither the Receiver nor the Purchaser shall be in breach of this Agreement nor shall the Purchase Price be adjusted or the Closing delayed.

2.5 Purchase Price

The purchase price for the Purchased Assets, exclusive of all applicable Transfer Taxes, shall be the aggregate of the following (the "Purchase Price"):

- (a) the Credit Bid Amount; and
- (b) the Assumed Liabilities;

to be satisfied in the manner set forth in Section 2.6. All applicable Transfer Taxes shall be paid by the Purchaser on the Closing subject to the terms hereof and the availability of any exemptions, deferrals or elections under any applicable legislation for such applicable Transfer Taxes

2.6 Satisfaction of Purchase Price

The Purchaser shall satisfy the Purchase Price on Closing by:

- (a) providing a credit to the Debtors (and by extension the Guarantors) in the amount of the Credit Agreement Bid Amount against the Debtors' obligations under the Credit Agreement;

- (b) providing a credit to the Receiver in the amount of the Receiver's Certificate Obligations if any, inclusive of the amount equal to the Wind-Down Estimate, as evidenced by the Receiver's Certificates if any, which credit shall be reduced by any Surplus Funds; and
- (c) the assumption by the Purchaser of the Assumed Liabilities.

2.7 Purchase Price Allocation

No later than 30 days before the Closing, the Purchaser shall prepare a written initial allocation of the amounts of the credits in Section 2.6 above and the Assumed Liabilities comprising the Purchase Price in respect of each of the Purchased Assets. The Parties, acting reasonably, shall agree, prior to the Closing, on such allocation.

2.8 Wind-Down Amount

No later than 10 Business Days prior to the Closing Date, the Receiver will deliver to the Purchaser the Wind-Down Estimate.

At Closing, if the Receiver is not holding sufficient Surplus Funds to fully fund the Wind-Down Amount, the Purchaser shall deliver to the Receiver the amount required to satisfy the Wind-Down Estimate by way of funds advanced to the Purchaser in its capacity as "Lender" to the Receiver as evidenced by Receiver's Certificates, which amount shall be subject to the Administration Charge and applied by the Receiver to fund the reasonable fees and disbursements of the Receiver and its counsel, in each case at their standard rates and charges. Any portion of the Wind-Down Estimate that is not required to fund the Wind-Down Amount that has not been applied in accordance with this Section on the date of the Receiver's discharge shall be returned by the Receiver to the Purchaser on such date. If the Wind-Down Amount exceeds the Wind-Down Estimate, the Purchaser shall deliver to the Receiver, within 3 Business Days of written request by the Receiver to the Purchaser, such additional funds as are required to fund the Wind-Down Amount.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE PARTIES

3.1 Representations and Warranties of the Receiver

The Receiver hereby represents and warrants to the Purchaser, as of the date hereof and as of the Closing Date, the matters set out below:

- (a) The Receiver has been appointed by the Court as receiver and manager of the Property pursuant to the Appointment Order, a copy of which is available on the Receiver's Website;
- (b) Subject to the issuance of the Sale Procedure Order, the Receiver has all necessary power and authority to enter into this Agreement;
- (c) Subject to the issuance of the Vesting Order, this Agreement constitutes a valid and binding obligation of the Receiver enforceable against it in accordance with its terms subject to any limitations imposed by Law, and the Receiver has the necessary power and authority to carry out its obligations hereunder; and
- (d) The Receiver has not authorized any Encumbrance affecting any of the Purchased Assets (other than any Permitted Encumbrances, any charge created by the Appointment Order, or arising by operation of Law in the normal course of the Business).

3.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to the Receiver, as of the date hereof and as of the Closing Date, the matters set out below:

- (a) The Purchaser has been duly incorporated and is validly subsisting under the Laws of the jurisdiction of its incorporation, and has all requisite corporate capacity, power and authority to carry on its business as now conducted by it and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business;
- (b) The execution, delivery and performance of this Agreement by the Purchaser does not result in the violation of any of the provisions of its constating documents or by-laws;
- (c) This Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with its terms subject only to any limitation under applicable Laws relating to: (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights; and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction;
- (d) Except for the Vesting Order, no Consent and no declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement or the performance by the Purchaser of its obligations hereunder;
- (e) The Purchaser or its designee which receives title to any part of the real property forming part of the Purchased Assets will be a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* (Canada) on Closing; and
- (f) The Purchaser will not be a non-resident of Canada for purposes of the *Income Tax Act* (Canada) on or prior to Closing.

ARTICLE 4 PROCEDURES

4.1 Sale Procedure Order and Vesting Order

- (a) The Receiver and the Purchaser acknowledge that (i) this Agreement is subject to Court approval, and (ii) Closing the Transaction is subject to this Agreement being determined by the Receiver to be the Successful Bid, and to the issuance of the Vesting Order;
- (b) On or before October 24, 2017, the Receiver shall file and serve the Sale Motion on notice to parties satisfactory to the Purchaser;
- (c) The Receiver shall use its commercially reasonable efforts to obtain the Sale Procedure Order on or before October 30, 2017;
- (d) If this Agreement is determined to be the Successful Bid pursuant to the Sale Procedure, the Receiver shall use its commercially reasonable efforts to promptly thereafter file and serve the Vesting Order Motion, on notice to parties satisfactory to the Purchaser;
- (e) The Purchaser shall provide all information, if any, and take such actions as may be reasonably requested by the Receiver to assist the Receiver in obtaining the Sale Procedure Order, and if the Purchaser is the Successful Bidder, the Vesting Order, and any other order of the Court reasonably necessary to consummate the Transaction; and
- (f) From and after the date hereof, the Receiver shall (i) prior to filing any materials with the Court that relate, in whole or in part, to this Agreement, the Purchaser, or the Vesting Order, consult in good faith with the Purchaser regarding the content of such materials (provided that Receiver shall not be obligated to incorporate the comments of Purchaser into any such filings), and (ii) not take any action that is intended to result in, or fail to take

any action that would result in, the reversal, voiding, modification or staying of the Sale Procedure Order or, if Purchaser is the Successful Bidder, the Vesting Order.

4.2 Pre-Closing Cooperation

(a) Prior to the completion of the Transaction, upon the terms, and subject to the conditions of this Agreement, each of the Parties shall use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and cooperate with each other in order to do, all things necessary, proper or advisable under applicable Law to consummate the Transaction, including the preparation and filing of all forms, registrations and notices required to be filed to consummate the Closing, and the taking of such actions as are necessary to obtain any requisite Consent, provided that the Receiver shall not be obligated to make any payment or deliver anything of value to any Person (other than filing with and payment of any application fees to Governmental Authorities, all of which shall be paid, funded or reimbursed by the Purchaser) in order to obtain any Consent.

(b) Each of the Receiver and the Purchaser shall promptly notify the other of the occurrence, to such Party's knowledge, of any event or condition, or the existence, to such Party's knowledge, of any fact, that would reasonably be expected to result in any of the conditions set forth in Section 5.1 or Section 5.2 not being satisfied.

4.3 Acquisition of Assets on "As Is, Where Is" Basis

The Purchaser hereby acknowledges and agrees as follows:

- (a) the Purchased Assets are being purchased on an "as is, where is" basis as at the Closing;
- (b) it has conducted or will conduct its own searches and investigations relating to the Purchased Assets;
- (c) it has conducted such inspections of the Purchased Assets as it deemed appropriate, satisfied itself with respect to the Purchased Assets and all matters connected with or related to the Purchased Assets, and has relied entirely upon its own investigations and inspections in entering into this Agreement to acquire the Purchased Assets without regard to any information made available or provided by the Receiver or its officers, directors, employees or agents;
- (d) it will accept the Purchased Assets in their state, condition and location as at the Closing Time and except as expressly set forth in this Agreement. The Receiver makes no representations, warranties, statements or promises on its own behalf or on behalf of the Debtors' in favour of the Purchaser concerning the Purchased Assets, or the Debtors' right, title or interest in or to the Purchased Assets, which the Purchaser acknowledges are being acquired on an as-is where-is basis, or the uses or applications of the Purchased Assets, whether express or implied, statutory or collateral, arising by operation of Law or otherwise, including express or implied warranties of merchantability, fitness for a particular purpose, the existence or non-existence of Hazardous Materials, compliance with any or all Environmental laws, title, description, quantity, condition or quality, and that any and all conditions and warranties expressed or implied by the *Land Registration Reform Act* (Ontario) or the *Sale of Goods Act* (Ontario) do not apply to the sale of the Purchased Assets and are hereby waived by the Purchaser;
- (e) without limiting the generality of the foregoing, it acknowledges and accepts that the description of the Purchased Assets and any portion thereof contained in the Schedules hereto or otherwise provided by the Receiver is for the purpose of identification only; and that no representation, warranty or condition has or will be given by the Receiver or any other party concerning completeness or the accuracy of such descriptions or with respect to any data room set up by the Receiver; and
- (f) the Purchaser acknowledges that it has examined title to the Real Property and has satisfied itself as to: (i) the state of title to the Real Property; (ii) any outstanding work orders affecting the Real Property and (iii) the use of the Real Property being in

accordance with applicable zoning requirements. The Purchaser further acknowledges that, notwithstanding any statutory provisions to the contrary, or in regard to any outstanding work order, deficiencies notices or orders to comply issued by any Government Authorities, the Purchaser shall accept title to the Real Property, subject to any Permitted Encumbrances, and except as otherwise provided in the Agreement, and shall satisfy itself as to compliance therewith.

4.4 Title Transfer and Risk

Prior to Closing, the Purchaser shall deliver not later than three (3) Business Days prior to Closing the Title Direction which direction shall call for and direct title to the Purchased Assets (to be transferred to the Purchaser or one or more designees), and the Receiver shall transfer title on Closing in accordance with the Title Direction.

ARTICLE 5 CONDITIONS

5.1 Conditions of the Purchaser

The obligations of the Purchaser to complete the purchase of the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions (each of which is acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part):

- (a) all of the representations and warranties of the Receiver made in or pursuant to this Agreement shall be true and correct at the Closing Time and with the same effect as if made at and as of the Closing Time (except as such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement) and the Purchaser shall have received a certificate from a senior officer of the Receiver confirming to the knowledge of such senior officer, without personal liability, the truth and correctness of such representations and warranties;
- (b) the Receiver shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;
- (c) the Receiver shall have executed and delivered, or caused to be executed and delivered, to the Purchaser on or prior to the Closing Date the documents required to complete the Transaction (with the possible exception of such documents required to transfer the Remaining Residence Assets) as may reasonably be required by the Purchaser or its solicitors;
- (d) there shall be no Order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such transactions is improper or would give rise to proceedings under any Laws; and
- (e) the Receiver shall have determined in accordance with the Sale Procedure that this Agreement is the Successful Bid and the Vesting Order shall have been issued.

The Purchaser may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

The conditions set out in Section 5.1 are conditions to completion of the Transaction but are not conditions to the enforceability of this Agreement.

5.2 Conditions of the Receiver

The obligations of the Receiver to complete the purchase of the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions (each of which is acknowledged to be inserted for the exclusive benefit of the Receiver and may be waived by it in whole or in part):

- (a) all of the representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct as at the Closing Time and with the same effect as if made at and as at the Closing Time (except as such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement) and the Receiver shall have received a certificate from a senior officer of the Purchaser confirming to his or her knowledge, without personal liability, the truth and correctness of such representations and warranties;
- (b) the Purchaser shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;
- (c) the Purchaser shall have executed and delivered or caused to be executed and delivered to the Receiver on or prior to the Closing Date the documents required to complete the Transaction as may reasonably be required by the Receiver or its solicitors;
- (d) there shall be no Order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such Transaction is improper or would give rise to proceedings under any Laws;
- (e) the Sale Procedure Order shall have been issued, the Receiver shall have determined in accordance with the Sale Procedure that this Agreement is the Successful Bid and the Vesting Order shall have been issued; and
- (f) the Receiver shall have received the funds equal to Wind-Down Estimate, if any.

The Receiver may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

The conditions set out in Section 5.2 are conditions to completion of the Transaction but are not conditions to the enforceability of this Agreement.

ARTICLE 6 CLOSING AND DELIVERIES

6.1 Closing

(a) Closing shall occur on a Business Day (the "Closing Date") to be designated by the Purchaser and reasonably acceptable to the Receiver after the satisfaction or waiver of all conditions set out in Sections 5.1 and 5.2 on notice of not less than 5 Business Days², unless otherwise agreed to by the Parties.

(b) Closing shall take place at 10:00 a.m. (the "Closing Time") on the Closing Date at the offices of the Receiver's solicitors, or such other time and location as the Parties may agree upon in writing. Any tender of documents hereunder may be made upon the Receiver or the Purchaser or upon the solicitors acting for the Party on whom tender is desired. Any tender of money hereunder shall be made to the Receiver. All proceedings to be taken and all documents to be executed and delivered by all parties at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be

deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

6.2 Receiver's Deliveries

At the Closing,

- (a) the sale, transfer, assignment, and conveyance by the Receiver of the Purchased Assets to the Purchaser, free and clear of all Encumbrances other than Permitted Encumbrances, shall be effected by the issued and entered Vesting Order and by execution and delivery by the Receiver of the Transfer(s)/Deed(s), Bill(s) of Sale and Ancillary Agreements (completed in accordance with the Title Direction);
- (b) the Purchaser shall receive delivery, pursuant to the Vesting Order, of free and clear title and possession of the Purchased Assets on an "as is, where is" basis in accordance with Section 4.3 subject to the Permitted Encumbrances, provided that delivery shall occur in situ wherever such Purchased Assets are located on the Closing Date;
- (c) the Receiver shall deliver a true and complete copy of the Vesting Order and the Closing Certificate;
- (d) the Receiver shall deliver a bring-down certificate executed by the Receiver, in a form satisfactory to the Purchaser, acting reasonably, certifying that all of the representations and warranties of the Receiver hereunder remain true and correct in all material respects as of the Closing; and
- (e) the Receiver shall deliver a notice to the Purchaser for delivery by the Purchaser to the account debtors of the purchased Accounts Receivable, including to Tarion Warranty Corporation, the Township of Oro-Medonte and Hydro One in respect of the letters of credit posted by the Debtors (and in respect the cash deposit made by the Receiver to Hydro One on behalf of HVL) notifying such account debtors of the transfer of the purchased Accounts Receivable, and directing such account debtors to pay the Accounts Receivable directly to the Purchaser after the Closing Date.

6.3 Purchaser's Deliveries

At the Closing,

- (a) the Purchaser shall deliver to the Receiver, for and on behalf of the Debtors, fully executed releases and waivers limited to the amount outstanding under the Credit Agreement equal to Credit Agreement Bid Amount, in a form satisfactory to the Receiver, acting reasonably;
- (b) the Purchaser shall deliver to the Receiver fully executed releases and waivers with respect of the Receiver's Certificate Obligations outstanding to the Purchaser on Closing, in a form satisfactory to the Receiver, acting reasonably;
- (c) the Purchaser shall advance funds equal to the Wind-Down Estimate to the Receiver, if any;
- (d) the Purchaser shall pay the applicable Transfer Taxes to the Receiver on the Purchased Assets being acquired on Closing other than (i) land transfer tax, which shall be paid in accordance with Section 6.3(i) hereof; and (ii) HST in respect of real property which shall be self-assessed;
- (e) the Purchaser shall deliver the Ancillary Agreements to which it is party, executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably;

- (f) the Purchaser shall deliver a bring-down certificate executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably, certifying that all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing;
- (g) the Purchaser shall deliver a document setting out the allocation of the Purchase Price, in form and substance satisfactory to the Receiver, acting reasonably;
- (h) the Purchaser shall deliver the Title Direction, in form and substance satisfactory to the Receiver, acting reasonably; and
- (i) the Purchaser's solicitors shall confirm to the Receiver in writing that it is holding sufficient funds in its trust account to pay for the land transfer tax exigible on the acquisition of those Purchased Assets to be acquired on Closing.

6.4 Post-Closing Accounts Receivable

From and after the Closing Date until the completion of the Receivership Proceeding, the Receiver shall promptly transfer to the Purchaser any cash, cheques or other instruments of payment that it receives payable to one of or both of the Debtors, or payable to the Receiver in respect of the Purchased Assets, including but not limited any and all refund(s) in respect of two irrevocable standby letters of credit in the total amount of \$840,000.00 posted by HRH in favour of Tarion Warranty Corporation as security for homes constructed prior to the Appointment Order.

6.5 Subsequent Deliveries

The Purchaser may from time to time at or after the Closing require that the Receiver execute and deliver to the Purchaser or as it may direct such further Ancillary Documents, Transfer(s)/Deed(s), and Bill(s) of Sale to allow the transfer of all or any part of the Purchased Assets not previously effectively transferred. The Receiver shall execute and deliver such additional documentation as soon as reasonably possible after request therefor.

ARTICLE 7 TERMINATION

7.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) automatically and without any action or notice by either the Receiver to the Purchaser or the Purchaser to the Receiver, immediately (i) if the Sale Procedure Order is not granted by the Court by October 30, 2017, (ii) upon the selection by the Receiver of a Successful Bid if this Agreement is neither the Successful Bid nor the Back-Up Bid selected at such time, or (ii) upon the Closing of the Successful Bid(s) if this Agreement is the Back-Up Bid;
- (b) subject to any approvals required from the Court, if any, by mutual written consent of the Receiver and the Purchaser;
- (c) by notice from the Receiver to the Purchaser or from the Purchaser to the Receiver, following the issuance of an Order or any other action by a Governmental Authority to restrain, enjoin or otherwise prohibit the transfer of the Purchased Assets as contemplated hereby;
- (d) automatically and without any action by either the Receiver or the Purchaser if Closing has not occurred on or before the Outside Date;
- (e) by the Receiver, if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.2 and such violation or breach has not been waived by

the Receiver or cured, unless the Receiver is in material breach of its obligations under this Agreement; and

- (f) by the Purchaser, if there has been a material violation or breach by the Receiver of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.1 and such violation or breach has not been waived by the Purchaser or cured, unless the Purchaser is in material breach of its obligations under this Agreement.

7.2 Effects of Termination

If this Agreement is terminated pursuant to Section 7.1:

- (a) all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other, subject to the Break Fee set out in subsection 7.2(c);
- (b) the Purchaser shall return to the Receiver all documents, work papers and other material of the Receiver and the Debtors, as the case may be, relating to the Transaction, whether obtained before or after the execution hereof;
- (c) In consideration for the Purchaser acting as the initial bidder in the stalking horse bid and the preparation and negotiation of this Agreement and subject to the terms and condition of this Agreement and of the Sale Procedure Order, upon the closing of a sale and a transfer, of all of the Purchased Assets to a party other than the Purchaser (an "Alternative Transaction"), the Receiver shall pay to the Purchaser from the proceeds of an Alternative Transaction a break fee which includes re-imbusement of the Purchaser's expenses in connection with this transaction (the "Break Fee") equal to 1.75% of the final Purchase Price after adjustments; and
- (d) Payment of the Break Fee shall be made by the Receiver upon Court approval of said payment after consummation of the Alternative Transaction. Upon payment of the Break Fee to the Purchaser, the parties shall have no further obligations under this Agreement.

ARTICLE 8 OTHER COVENANTS OF THE PARTIES; GENERAL

8.1 Access of the Receiver to Books and Records

The Receiver shall, for a period of six (6) years from the completion of the Transaction, have access to the Books and Records relating to the Business, the Purchased Assets and the Assumed Liabilities which are transferred and conveyed to, or assumed by, the Purchaser pursuant to this Agreement, and the right to copy such material at its own cost, to the extent necessary or useful in connection with the completion of the administration of the Receivership Proceeding.

8.2 Tax Matters

- (a) The Purchaser and the Receiver agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters;
- (b) The Purchaser and the Receiver shall each be responsible for the preparation of their own statements, if any, required to be filed under the *Income Tax Act* (Canada) and other similar focus in accordance with applicable Tax Laws;

- (c) All amounts payable by the Purchaser to the Receiver pursuant to this Agreement are exclusive of any, sale, goods and services, harmonized sales, value added, use, consumption, personal property, customs, excise, transfer, land transfer, or similar Taxes, duties, or charges, or any recording or filing fees or similar charges (collectively, "Transfer Taxes") and all Transfer Taxes are the responsibility of and for the account of the Purchaser. The Purchaser and the Receiver agree to cooperate to determine the amount of Transfer Taxes payable in connection with the Transaction. If the Receiver is required by applicable Law or by administration thereof to collect any applicable Transfer Taxes from the Purchaser, the Purchaser shall pay such Transfer Taxes to the Receiver on Closing against a statement from the Receiver separately indicating the amount of Transfer Tax payable, unless the Purchaser qualifies for an exemption from any such applicable Transfer Taxes, in which case the Receiver shall not collect any such applicable Transfer Taxes from the Purchaser provided the Purchaser, in lieu of payment of such applicable Transfer Taxes to the Receiver, delivers to the Receiver such certificates, elections or other documentation required by applicable Law or the administration thereof to substantiate and affect the exemption claimed by the Purchaser. The GST/HST registration numbers of the Debtors are set out in Schedule I hereto;
- (d) The Purchaser shall indemnify and save the Receiver harmless from and against all claims and demands for payment of the Transfer Taxes referenced in this Section 8.2, including penalties and interest thereon and any liability or costs incurred as a result of any failure to pay such Taxes when due;
- (e) If applicable, the Purchaser shall ensure that any transferee of the Purchased Assets that constitutes real property and any part thereof is registered as a registrant for the purposes of payment of GST and HST pursuant to the *Excise Tax Act* (Canada) and shall deliver to the Receiver at the time any title any real property that forms part of the Purchased Assets is transferred evidence of such registration together with an indemnity in a form acceptable to the Receiver with respect thereto; and
- (f) The Purchaser and the Receiver shall also execute and deliver such other Tax elections and forms as they may mutually agree upon.

8.3 Receiver's Capacity

The Purchaser acknowledges and agrees that in all matters pertaining to the Sale Procedure, this Agreement, including in its execution, Rosen Goldberg Inc. has acted and is acting solely in its capacity as receiver and manager of the Property pursuant to the Appointment Order and not in its personal, corporate, or any other capacity and the Receiver and its agents, officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith.

8.4 Receiver Disclosures

The Receiver shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court, to the parties in interest to the proceedings in connection with the receivership of the Debtors, and to any parties entitled to access in accordance with the Sale Procedure and to publish this Agreement on the Receiver's Website. The Parties will consult with and be cooperative with each other in respect of any press release or public statement or public communication with respect to this Agreement or Transaction.

8.5 Closing Certificate

The Parties hereby acknowledge and agree that the Receiver shall be entitled to file with the Court a certificate, substantially in the form attached to the Vesting Order (the "Closing Certificate") upon receiving written confirmation from the Purchaser that all conditions to Closing have been satisfied or waived. The Receiver shall have no liability to the Purchaser or any other person as a result of filing the Closing Certificate

8.6 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by e-mail:

in the case of a notice to the Purchaser at:

Romspen Investment Corporation
162 Cumberland St, Toronto, ON M5R 3N5

Attention: Wes Roitman
Email wes@romspen.com

with a copy (which shall not constitute notice) to:

Blaney McMurtry LLP
2 Queen St E., Suite 1500, Toronto, ON M5C 3G5

Attention: Eric Golden
Email: egolden@blaney.com

in the case of a notice to the Receiver at:

Rosen Goldberg Inc.
5255 Yonge St, North York, ON M2N 5P8

Attention: Brahm Rosen
Email: brosen@rosengoldberg.com

with a copy (which shall not constitute notice) to:

Dickinson Wright
199 Bay Street, Suite 2200, Toronto, ON M5L 1G4

Attention: David Preger
Email: dpreger@dickinson-wright.com

Any notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving notice to the other Party in accordance with the provisions of this Section 8.6.

8.7 Assignment

The Purchaser may at any time assign any of its rights or obligations arising under this Agreement to an affiliate of the Purchaser; provided, however, that in the event of any such assignment, the Purchaser shall be jointly and severally liable for the obligations it assigns and shall not be relieved of any liability or obligation hereunder. Subject to the foregoing, no Party may assign this Agreement or any rights or obligations arising under this Agreement without the prior written consent of the other Party. Nothing herein shall prevent the Purchaser from directing that title to all or any part of the Purchased Assets be transferred to one or more Persons.

8.8 Expenses

Each of the Parties shall pay their respective legal, accounting, and other professional advisory fees, costs and expenses incurred in connection with the Transaction, and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement.

8.9 Time of the Essence

Time shall be of the essence in respect of the obligations of the Parties under this Agreement.

8.10 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

8.11 Amendment

No amendment, supplement, modification or waiver of this Agreement and, unless otherwise specified, no consent or approval by any Party, shall be binding unless executed in writing by the Party to be bound thereby.

8.12 Further Assurances

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the Transaction, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing provided that the reasonable costs and expenses of any actions taken after Closing at the request of a Party shall be the responsibility of the requesting Party.

8.13 Residual Credit Agreement Debt and Continued Liability of the Guarantors

The execution, delivery and effectiveness of this Agreement shall NOT directly or indirectly: (a) be construed as a waiver or release of Romspen's right, title and interest in and to the Romspen Secured Debt that does not form part of the Credit Agreement Bid Amount, and such indebtedness will remain owing by the Debtors and the Guarantors to Romspen on a joint and several basis and continue to accrue to Romspen from and after the Closing Date, (b) constitute a consent or waiver of any past, present or future violations of any provisions of the Credit Agreement and/or any Romspen loan documents related thereto, and (c) amend, modify or operate as a waiver of any provision(s) of the Credit Agreement and/or any Romspen loan documents related thereto or any right, power or remedy of Romspen under the Credit Agreement and/or any Romspen loan documents related thereto. Except as expressly set forth herein, Romspen reserves all of its rights, powers, and remedies under the Credit Agreement and any Romspen loan documents related thereto, and applicable law. [emphasis added]

8.14 Execution and Delivery

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile or other electronic means and all such counterparts and facsimiles (or other electronic deliveries) shall together constitute one and the same agreement.

8.15 Survival

No covenants, representations or warranties of any Party contained in this Agreement or any document delivered pursuant hereto will survive the completion of the sale and purchase and assumption of the Purchased Assets and the Assumed Liabilities hereunder, except for the covenants that by their terms are to be satisfied after the completion of the Transaction, which covenants will continue in full force and effect in accordance with their terms.

[remainder of page intentionally left blank]

IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

ROSEN GOLDBERG INC., solely in its capacity as court-appointed receiver and manager of the assets, property and undertaking of Horseshoe Valley Lands Ltd. and Horseshoe Ridge Homes Inc., and not in its personal capacity and without personal or corporate liability

By: _____

Name:

Title:

ROMSPEN INVESTMENT CORPORATION

By: Mary Handrick

Name: Mary Handrick

Title: Managing General Partner

IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

ROSEN GOLDBERG INC., solely in its capacity as court-appointed receiver and manager of the assets, property and undertaking of Horseshoe Valley Lands Ltd. and Horseshoe Ridge Homes Inc., and not in its personal capacity and without personal or corporate liability

By: 

Name: BRAMM ROSEN

Title: President

ROMSPEN INVESTMENT CORPORATION

By: _____

Name:

Title:

**SCHEDULE A
CONTRACTS**

**SCHEDULE B
EXCLUDED ASSETS**

1. Amended Statement of Claim bearing Action No. 16-0137, being a claim by the Debtors, Horseshoe R.E. Management Inc. and Horseshoe Lands Development Corporation as plaintiffs against Julie Boville, John William Kennedy, Zachary Fortunato Moro, Kenmore Custom Home Builders Inc. and the Estate of John Boville regarding the property municipally known as 35 Nordic Trail, Township of Oro-Medonte

**SCHEDULE C
LEGAL DESCRIPTION OF THE REMAINING PROPERTY**

Firstly:

PIN 74055-0191(LT):

BLOCK 67, PLAN 51M741, ORO-MEDONTE. S/T EASE PT 20 51R30671 AS IN LT522875; S/T EASE AS IN SC108665. T/W EASE OVER PTS 1, 2, 3, 4, 5 & 23 51R30671 AS IN LT522878.

Secondly:

PIN 74055-0192(LT):

BLOCK 68, PLAN 51M741, ORO-MEDONTE. S/T EASE PT 7 51R30671 AS IN LT522875; S/T EASE AS IN SC108651. T/W EASE OVER PTS 1, 2, 3, 4, 5 & 23 51R30671 AS IN LT522878.

Thirdly:

PIN 74055-0193(LT):

BLOCK 69, PLAN 51M741, ORO-MEDONTE. S/T EASE PT 7 51R30671 AS IN LT522875; S/T EASE AS IN SC108651. T/W EASE OVER PTS 1, 2, 3, 4, 5 & 23 51R30671 AS IN LT522878.

Fourthly:

PIN 74055-0194(LT):

BLOCK 70, PLAN 51M741, ORO-MEDONTE. S/T EASE PT 7 51R30671 AS IN LT522875; S/T EASE AS IN SC108665. T/W EASE OVER PTS 1, 2, 3, 4, 5 & 23 51R30671 AS IN LT522878.

Fifthly:

PIN 74055-0223(LT):

PT LT 4 CON 4 ORO PT 1 51R35260, S/T LT327069, S/T LT522878, T/W EASEMENT OVER PTS 7, 9, 10, 13, 16, 17, 19 & 20 51R30671 AS IN LT522875, T/W EASEMENT OVER PT LT 4 CON 4 ORO PT 1 PL 51R36465 AS IN SC773798; ORO-MEDONTE

Sixthly:

PIN 74055-0246(LT):

BLOCK 17, PLAN 51M981; SUBJECT TO AN EASEMENT AS IN LT522875; SUBJECT TO AN EASEMENT AS IN SC957956; TOGETHER WITH AN EASEMENT OVER PTS 1, 2, 3, 4, 5 & 23 51R30671 AS IN LT522878; TOGETHER WITH AN EASEMENT OVER PT LT 4 CON 4 ORO PT 1 51R36465 AS IN SC773798; TOWNSHIP OF ORO-MEDONTE

Seventhly:

PIN 74055-0247(LT):

BLOCK 18, PLAN 51M981; SUBJECT TO AN EASEMENT AS IN LT522875; SUBJECT TO AN EASEMENT AS IN SC957956; TOGETHER WITH AN EASEMENT OVER PTS 1, 2, 3, 4, 5 & 23 51R30671 AS IN LT522878; TOGETHER WITH AN EASEMENT OVER PT LT 4 CON 4 ORO PT 1 51R36465 AS IN SC773798; TOWNSHIP OF ORO-MEDONTE

Eighthly:

PIN 74055-0272(LT):

PT LT 4 CON 4 ORO, PT 11 PL 51R30671 EXCEPT 51M1035; TOGETHER WITH AN EASEMENT OVER PTS 1, 2, 3, 4, 5 & 23 51R30671 AS IN LT522878; TOGETHER WITH AN EASEMENT OVER PT LT 4 CON 4 ORO PT 1 51R36465 AS IN SC773798; TOWNSHIP OF ORO-MEDONTE

Ninthly:

PIN 74055-0337(LT):

BLOCK 62, PLAN 51M1035; TOGETHER WITH AN EASEMENT OVER PTS 1, 2, 3, 4, 5 & 23 PL 51R30671 AS IN LT522878; TOGETHER WITH AN EASEMENT OVER PT LT 4 CON 4 ORO, PT 1 PL 51R36465 AS IN SC773798; SUBJECT TO AN EASEMENT IN GROSS OVER PT 10 PL 51R39569 AS IN SC1161908; TOWNSHIP OF ORO-MEDONTE

Tenthly:

PIN 74055-0338(LT):

BLOCK 63, PLAN 51M1035; SUBJECT TO AN EASEMENT AS IN SC975509; SUBJECT TO AN EASEMENT AS IN SC975510; TOGETHER WITH AN EASEMENT OVER PTS 1, 2, 3, 4, 5 & 23 PL 51R30671 AS IN LT522878; TOGETHER WITH AN EASEMENT OVER PT LT 4 CON 4 ORO, PT 1 PL 51R36465 AS IN SC773798; SUBJECT TO AN EASEMENT IN GROSS OVER PT 2 PL 51R39568 AS IN SC1161884; TOWNSHIP OF ORO-MEDONTE

Eleventhly:

PIN 74055-0387(LT):

FIRSTLY: PT LT 4 CON 4 ORO, PT 12 (EXCEPT 51M1035), 13, 14, 16 & 17 PL 51R30671 EXCEPT PT 1, 51R40156, S/T EASEMENT OVER PTS 13, 16 & 17 PL 51R30671 IN FAVOUR OF PTS 1, 2, 3, 4, 5 & 23 PL 51R30671 AS IN LT522875, T/W EASEMENT OVER PTS 1, 2, 3, 4, 5 & 23 PL 51R30671 AS IN LT522878, T/W EASEMENT OVER PT LT 4 CON 4 ORO BEING PT 1 ON PL 51R36465 AS IN SC773798 SECONDLY: PT LT 4 CON 4 ORO PT 2 51R40156; S/T LT327069, T/W EASEMENT OVER PTS 7,9,10,13,16,17,19 & 20 51R30671 AS IN LT522875, S/T EASEMENT AS IN LT522878, T/W EASEMENT OVER PT LT 1 CON 3 MEDONTE PT 1 51R30015 AS IN SC663268, T/W EASEMENT OVER PT LTS 3 & 4 CON 4 ORO PT 1 51R36466 AS IN SC774226, T/W EASEMENT OVER PT LT 2 CON 4 MEDONTE PT 2 51R36464 AS IN SC774233, T/W EASEMENT OVER PT LT 2 CON 4 MEDONTE PT 1 51R36464 AS IN SC774235 THIRDLY: PT LT 4 CON 4 ORO PT 4 51R40156; S/T LT327069, T/W EASEMENT OVER PTS 7,9,10,13,16,17,19 & 20 51R30671 AS IN LT522875, S/T EASEMENT AS IN LT522878, T/W EASEMENT OVER PT LT 1 CON 3 MEDONTE PT 1 51R30016 AS IN SC663268, T/W EASEMENT OVER PT LTS 3 & 4 CON 4 ORO PT 1 51R36466 AS IN SC774226, T/W EASEMENT OVER PT LT 2 CON 4 MEDONTE PT 2 51R36464 AS IN SC774233, T/W EASEMENT OVER PT LT 2 CON 4 MEDONTE PT 1 51R36464 AS IN SC774235 FOURTHLY: PT LT 4 CON 4 ORO

PT 3 51R40156; S/T LT327069; T/W EASEMENT OVER PTS 7,9,10,13,16,17,19 & 20 51R30671 AS IN LT522875; T/W EASEMENT OVER PT LT 1 CON 3 MEDONTE PT 1 51R30016 AS IN SC663268, T/W EASEMENT OVER PT LTS 3 & 4 CON 4 ORO PT 1 51R36466 AS IN SC774226, T/W EASEMENT OVER PT LT 2 CON 4 MEDONTE PT 2 51R36464 AS IN SC774233, T/W EASEMENT OVER PT LT 2 CON 4 MEDONTE PT 1 51R36464 AS IN SC774235; TOWNSHIP OF ORO-MEDONTE

Twelfthly:

PIN 58527-0451(LT):

PCL 1-3 SEC 51-MED-3; PT LT 1 CON 3 MEDONTE PT 1 51R30016, T/W PT 1 & 2 51R22624 AS IN LT236559 RELEASED AS TO PT 1 PL 51R39832 BY SC1259861, S/T EASEMENT AS IN SC663268; ORO-MEDONTE

Thirteenthly:

PIN 58527-0461(LT):

PCL 1-9 SEC 51-MED-4; PT LT 1 CON 4 MEDONTE PT 1, 51R18259 & PT 1, 51R18260; S/T LT313815; ORO-MEDONTE

Fourteenthly:

PIN 58527-0463(LT):

PCL 1-6 SEC 51-MED-4; PT LT 2 CON 4 MEDONTE PT 3, 51R8682; S/T LT313815; ORO-MEDONTE

Fifteenthly:

PIN 58527-0470(LT):

PT LT 1 CON 4 MEDONTE, PT LT 2 CON 4 MEDONTE PT 1 51R35261 EXCEPT PT 1 51R36976; SUBJECT TO AN EASEMENT AS IN LT327069; TOGETHER WITH AN EASEMENT OVER PT 1 & 2 51R22624 AS IN LT236559; TOGETHER WITH AN EASEMENT OVER PT 10, 11, 12 & 13 51R32830 AS IN SC550482; SUBJECT TO AN EASEMENT AS IN SC774233; SUBJECT TO AN EASEMENT AS IN SC774235; TOWNSHIP OF ORO-MEDONTE

Sixteenthly:

PIN 74056-0052(LT):

PCL 1-20 SEC 51-ORO-4; PT LT 1 CON 5 ORO PT 3, 51R20347; ORO-MEDONTE

**SCHEDULE D
PERMITTED ENCUMBRANCES**

General Encumbrances:

1. Any and all reservations, limitations, provisos and conditions expressed in the original grant from the Crown and unpatented mining claims and Native land claims.
2. Any and all applicable laws, including, without limitation, municipal by-laws, including building and zoning by-laws and decisions of the Committee of Adjustments or any other competent authority permitting variances therefrom, applicable to the Remaining Property.
3. Any and all permits, licenses, easements, rights-of-way, rights in the nature of easements and agreements with respect thereto including, without limitation, registered and unregistered licenses, easements, rights-of-way, rights in the nature of easements for access, public ways, sewers, drains, utilities, gas, steam and water mains or electric light and power, or telephone and telegraphic conduits, poles, wires and cables.
4. Any and all agreements with municipalities including, without limitation, subdivision agreements, development agreements, site plan agreements, servicing agreements and encroachment agreements and airport zoning regulations.
5. Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
6. Any rights of expropriation, access or use or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Ontario.
7. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Remaining Property that have accrued but are not yet due and owing.
8. Restrictive covenants, exclusivity provisions, and other similar land use control agreements.
9. Any statutory liens, charges, adverse claims, prior claims, security interests, deemed trusts or other encumbrances of any nature whatsoever which are not registered on the title to the Remaining Property that are claimed or held by Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of the Province of Ontario or by any other governmental authority under or pursuant to any applicable laws.
10. Any title defects, irregularities or discrepancies in title or possession relating to the Remaining Property that do not have a material adverse effect on the use or marketability of the Remaining Property.
11. Minor encroachments of buildings or structures situate on the Remaining Property onto adjoining lands and minor encroachments of buildings and structures situate on adjoining lands onto the Remaining Property.
12. Security given to a public utility or any municipality or Governmental Authority when required by the operations of the Remaining Property in the ordinary course of business, including without limitation, the right of the municipality to acquire portions of the Remaining Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to

be providing to the Remaining Property.

13. Undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Remaining Property or of which notice in writing shall not at the time have been given to the Vendor pursuant to the Construction Lien Act (Ontario) and in respect of any of the foregoing cases, the Vendor has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts.
14. Any reference plans or plans registered pursuant to the Boundaries Act (Ontario).
15. The exceptions and qualifications contained in section 44(1) of the *Land Titles Act* (Ontario).

Specific Encumbrances:

1. Instrument No. RO291771 registered March 5, 1969 against PINs 58527-0461(LT) and 58527-0463(LT), being an Order.
2. Instrument No. LT267630 registered August 16, 1994 against PIN 58527-0461(LT), being an Order in respect of Plan 51R-24285.
3. Instrument No. LT313815 registered January 21, 1997 against PINs 58527-0461(LT) and 58527-0463(LT), being a Transfer of Easement in favour of The Corporation of the Township of Oro-Medonte (the "Township").
4. Instrument No. LT501162 registered August 2, 2001 against PIN 58527-0470(LT), being a Notice of an Amending Agreement dated July 30, 2001 between Horseshoe Valley Resort Ltd. and Carriage Hills Vacation Owners Association to amend an easement previously registered as Instrument No. 327069.
5. Instrument No. LT522875 registered November 15, 2001 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0246(LT), 74055-0247(LT) and 74055-0387(LT), being a Transfer of Easement in favour of Horseshoe Valley Resort Ltd.
6. Instrument No. LT522878 registered November 15, 2001 against PINs 74055-0223(LT) and 74055-0387(LT), being a Transfer of Easement in favour of Horseshoe Valley Lands Ltd.
7. Instrument No. SC9488 registered April 2, 2002 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0246(LT), 74055-0247(LT), 74055-0272(LT), 74055-0337(LT) and 74055-0338(LT), being Notice of an Agreement with the Township.
8. Instrument No. SC36251 registered July 10, 2002 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0246(LT), 74055-0247(LT), 74055-0272(LT), 74055-0337(LT) and 74055-0338(LT), being Notice of an Agreement with the Township.
9. Instrument No. SC106472 registered April 10, 2003 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT) and 74055-0194(LT), being a Plan Document.
10. Instrument No. SC106692 registered April 11, 2003 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT) and 74055-0194(LT), being Notice of a Subdivision Agreement with the Township.
11. Instrument No. SC108651 registered April 22, 2003 against PINs 74055-0192(LT) and 74055-0193(LT), being a Transfer of Easement in favour of the Township.
12. Instrument No. SC108665 registered April 22, 2003 against PINs 74055-0191(LT) and 74055-

- 0194(LT), being a Transfer of Easement in favour of American Water Services Canada Corp.
13. Instrument No. SC173013 registered November 21, 2003 against PIN 58527-0451(LT), being a Land Registrar's Order.
 14. Instrument No. SC255232 registered August 24, 2004 against PIN 58527-0470(LT), being a Notice of an agreement between Horseshoe Valley Resort Ltd., New Millennium Homes Limited and the Township.
 15. Instrument No. SC663268 registered July 14, 2008 against PIN 58527-0451(LT), being a Transfer of Easement in favour of Skyline Horseshoe Valley Inc.
 16. Instrument No. SC663270 registered July 14, 2008 against PINs 58527-0451(LT), 58527-0461(LT), 58527-0463(LT), 74055-0223(LT), 74055-0246(LT), 74055-0247(LT), 74055-0272(LT), 74055-0337(LT), 74055-0338(LT), 74055-0387(LT), 74055-0470(LT) and 74056-0052(LT), being a Notice of an agreement among Horseshoe Valley Lands Ltd., Horseshoe/Salvil (Medonte) Limited, Skyline Horseshoe Valley Inc. and Skyline Utility Services Inc.
 17. Instrument No. SC774233 registered October 15, 2009 against PIN 58527-0470(LT), being a Transfer of Easement in favour of Skyline Horseshoe Valley Inc.
 18. Instrument No. SC774235 registered October 15, 2009 against PIN 58527-0470(LT), being a Transfer of Easement in favour of Skyline Horseshoe Valley Inc.
 19. Instrument No. SC957955 registered January 17, 2012 against PINs 74055-0246(LT), 74055-0247(LT) and 74055-0338(LT), being Notice of a Subdivision Agreement with the Township.
 20. Instrument No. SC957956 registered January 17, 2012 against PINs 74055-0246(LT) and 74055-0247(LT), being a Transfer of Easement in favour of the Township.
 21. Instrument No. SC964646 registered February 23, 2012 against PINs 58527-0451(LT), 58527-0461(LT), 58527-0463(LT), 58527-0470(LT) and 74056-0052(LT), being a Notice of Option to Purchase in favour of Skyline Horseshoe Valley Inc.
 22. Instrument No. SC975509 registered April 20, 2012 against PIN 74055-0338(LT), being a Transfer of Easement in favour of Hydro One Networks Inc.
 23. Instrument No. SC975510 registered April 20, 2012 against PIN 74055-0338(LT), being a Transfer of Easement in favour of Hydro One Networks Inc.
 24. Instrument No. SC1158011 registered September 5, 2014 against PINs 74055-0337(LT) and 74055-0338(LT), being Notice of a Subdivision Agreement with the Township.
 25. Instrument No. SC1161884 registered September 23, 2014 against PIN 74055-0338(LT), being a Transfer of Easement in favour of the Township.
 26. Instrument No. SC1161908 registered September 23, 2014 against PIN 74055-0337(LT), being a Transfer of Easement in favour of Hydro One Networks Inc.
 27. Instrument No. SC1162169 registered September 24, 2014 against PIN 74055-0338(LT), being an Application to Annex Restrictive Covenants.
 28. Instrument No. SC1219985 registered June 22, 2015 against PINs 74055-0337(LT) and 74055-0338(LT), being a Land Registrar's Order amending the entry in the property description of the dominant easement in Instrument No. LT522878.

29. Instrument No. SC1259861 registered November 10, 2015 against PIN 58527-0451(LT), being a Transfer, Release and Abandonment in respect of Instrument No. LT236559.
30. Instrument No. SC1296981 registered April 19, 2016 against PINs74055-0387(LT), being an Application to Consolidate.

**SCHEDULE E
SECURITY**

1. Instrument No. SC819690 registered May 13, 2010, being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$5,000,000.00.
2. Instrument No. SC819691 registered May 13, 2010, being a Notice of Assignment of Rent General granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation.
3. Instrument No. SC835383 registered July 6, 2010, being Notice of an agreement between Romspen Investment Corporation and Horseshoe Valley Lands Ltd. to amend the Charge/Mortgage registered as Instrument No. SC819690 on May 13, 2010.
4. Instrument No. SC864692 registered November 9, 2010, being Notice of an agreement between Romspen Investment Corporation and Horseshoe Valley Lands Ltd. to amend the Charge/Mortgage registered as Instrument No. SC819690 on May 13, 2010.
5. Instrument No. SC942146 registered November 1, 2011, being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$10,000,000.00.
6. Instrument No. SC942147 registered November 1, 2011, being a Notice of Assignment of Rent General granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation.
7. Instrument No. SC1054837 registered May 3, 2013, being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$13,700,000.00.
8. Instrument No. SC1148135 registered July 29, 2014, being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$26,000,000.00.
9. Instrument No. SC1282555 registered February 12, 2016, being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$26,000,000.00.

**SCHEDULE F
SALE PROCEDURE**

Sale Procedure

Pursuant to a receivership application issued on July 22, 2016, by Romspen Investment Corporation bearing Court file No. CV-16-111468-00CL (the “**Receivership Proceeding**”), and an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) therein dated November 29, 2016 (as amended by Order of the Court dated December 22, 2016, and as may in the future be supplemented, amended or restated from time to time, and collectively the “**Appointment Order**”), Rosen Goldberg Inc. (the “**Receiver**”) was appointed receiver, without security, of the assets, property and undertaking (collectively, the “**Property**”) of each of Horseshoe Valley Lands Ltd (“**HVL**”) and Horseshoe Ridge Homes Inc. (“**HRH**”) and with HVL collectively, the “**Debtors**”).

At the time of the making of the Appointment Order, HVL’s real property consisted of vacant lands in the Township of Oro-Medonte, in the vicinity of the Horseshoe Valley Resort (the “**Lands**”) which were being developed for residential use by HVL (the “**Project**”). The Lands were comprised of :

- (a) 29 single family lots, on the south side of Horseshoe Valley Road (the “**29 Single Family Lots**”);
- (b) 19 townhouse lots on the south side of Horseshoe Valley Road, 9 of which are serviced and 11 of which are unserviced (the “**Townhouse Lots**”);
- (c) 1 unserviced single family lot on the south side of Horseshoe Valley Road (the “**1 Unserved Single Family Lot**”);
- (d) 1 unserviced commercial/institutional lot on the south side of Horseshoe Valley Road;
- (e) 67 acres approved for 789 residential units on the south side of Horseshoe Valley Road;
- (f) 109.9 acres zoned 50% rural agricultural and 50% environmental on the north side of Horseshoe Valley Road;
- (g) 3.91 acres zoned for agricultural uses on the south side of Horseshoe Valley Road; and
- (h) 52.75 acres, substantially all of which are zoned for residential development, on the north side of Horseshoe Valley Road;

HVL marketed the Lands for sale through HRH.

The Property, excluding the 29 Single Family Lots, the Townhouse Lots and the 1 Unserved Single Family Lot, comprises the “**Remaining Property**”

On October 30, 2017, the Court made an order (the “**Sale Procedure Order**”) among other things, approving (a) the Receiver's entry into a certain agreement of purchase and sale for the Remaining Property between the Receiver and Romspen

Investment Corporation as purchaser (the "**Stalking Horse Bidder**") dated October 20, 2017 (the "**Stalking Horse Agreement**") so as to set a minimum floor price in respect of the Receiver's sales process; and (b) this Sale Procedure for the solicitation of offers or proposals (each a "**Bid**") for the acquisition of the Remaining Property, or some portion thereof.

Accordingly, the following Sale Procedure shall govern the proposed sale of all or substantially all of the Remaining Property pursuant to one or more Bids. This Sale Procedure shall govern the sales process relating to the solicitation by the Receiver of one or more Bids for the Remaining Property that, alone or in combination, are superior to that contemplated by the Stalking Horse Agreement.

All denominations are in Canadian Dollars.

1. **Definitions**

Capitalized terms used in this Sale Procedure shall have the definitions given to them in the preamble hereto and as follows:

"**Acknowledgement of Sale Procedure**" means an acknowledgement of the Sale Procedure in the form attached as **Schedule A** hereto;

"**Acquisition Entity**" means an entity specially formed for the purpose of effectuating the contemplated transaction;

"**Back-up Bid**" means the next highest and/or best Qualified Phase II Bid after the Successful Bid, as assessed by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale;

"**Back-up Bidder**" means the bidder submitting the Back-up Bid;

"**Bidder**" means a Qualified Phase I Bidder or a Qualified Phase II Bidder;

"**Accounts Receivable**" means (i) all accounts receivable owing to any or both of the Debtors.

"**Confidential Data Room**" means a private data room prepared and maintained by the Receiver containing confidential information in respect of or related to the Remaining Property;

"**Confidential Information Memorandum**" means a confidential information memorandum prepared by the Receiver providing certain confidential information in respect of or related to the Remaining Property;

"**Confidentiality Agreement**" means an executed confidentiality agreement in form and substance acceptable to the Receiver and its counsel;

"**Cushman & Wakefield**" means Cushman & Wakefield Ltd. in its capacity as

marketing and listing agent to the Receiver pursuant to an engagement agreement to be dated as of October 30, 2017;

"Encumbrances" means, collectively, all pledges, liens, security interests, encumbrances, claims, charges, options, and interests;

"Good Faith Deposit" means a cash deposit equal to ten (10) percent of the total purchase price contemplated under the applicable Modified APA;

"Interested Party" means a party participating in this Sale Procedure;

"Modified APA" means an executed mark-up of the Stalking Horse Agreement reflecting the applicable Qualified Phase I Bidder's proposed changes to the Stalking Horse Agreement;

"Notice Parties" means the Receiver and Dickinson Wright LLP;

"Participant Requirements" means, collectively, the requirements set out in Section 4(a) through 4e(iv) hereof;

"Phase I Bid" means an initial Bid submitted by an Interested Party pursuant to Section 4 hereof;

"Phase I Bid Deadline" means 10:00 a.m. (Eastern time) on December 8, 2017;

"Phase I Bidder" means a bidder submitting a Phase I Bid;

"Phase I Participant Requirements" has the meaning given to it in Section 4 hereof;

"Phase II Bid" means a Bid submitted by a Qualified Phase I Bidder pursuant to Section 9 hereof;

"Phase II Bid Deadline" means 10:00 a.m. (Eastern time) on December 15, 2017;

"Principals" means, collectively, the equity holder(s) of an Acquisition Entity and any guarantor of any Bid made by such Acquisition Entity;

"Qualified Phase I Bidder" means a Phase I Bidder that delivers the documents described in paragraphs (a) through (e) in Section 4, and that the Receiver determines is reasonably likely to submit a binding *bona fide* offer that would have an aggregate purchase price for the Remaining Property that exceeds the Stalking Horse Purchase Price and would be able to consummate a transaction if selected as a Successful Bidder;

"Qualified Phase II Bid" means a Phase II Bid that satisfies the conditions set out in Section 8 hereof;

"Qualified Phase II Bidder" means a bidder submitting a Qualified Phase II Bid;

"Sale Hearing" means a hearing to approve the sale of Remaining Property to the Successful Bidder;

"Romspen" means Romspen Investment Corporation in its capacity as the senior secured lender of the Debtors;

"Stalking Horse Purchase Price" means \$20,400,000.00;

"Successful Bid" means the highest and best Qualified Phase II Bid as determined by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale; and

"Successful Bidder" means the Bidder submitting the Successful Bid.

2. Assets for Sale

The Receiver is soliciting superior offers for all of and not less than all of the Remaining Property (as defined in the Stalking Horse Agreement).

For the purposes of this Sale Procedure, Bids may be submitted only for the entire Remaining Property.

3. Sale Procedure Structure and Bidding Deadlines

The Sale Procedure shall consist of two phases. In the first phase, Interested Parties that meet the preliminary participant requirements set out herein, including having executed a Confidentiality Agreement, shall be provided the Confidential Information Memorandum in order to prepare and submit their Phase I Bid by the Phase I Bid Deadline and be given access to additional confidential information in the Confidential Data Room. Phase I Bidders that are determined by the Receiver to be Qualified Phase I Bidders shall be invited to participate in the second phase to submit a Phase II Bid.

The Receiver will be engaging Cushman & Wakefield as marketing and listing agent to assist the Receiver with the implementation of the Sale Procedure. Interested Parties wishing to obtain information about the Sale Procedure, a copy of the Confidentiality Agreement and information in connection with their due diligence, should contact Cushman & Wakefield, Attn. Peter Deguerre (peter.deguerre@cushwake.com), and the Receiver, Rosen Goldberg Inc., Attn. Brahm Rosen (brosen@rosengoldberg.com).

All Phase I Bids must be submitted to the Notice Parties by email in accordance with the terms of this Sale Procedure so that they are actually received by each of the Notice Parties no later than the Phase I Bid Deadline. All Phase II Bids must be submitted to the Notice Parties by email in accordance with the terms of this Sale Procedure so that they are actually received by each of the Notice Parties no later than the

Phase II Bid Deadline. In addition, written copies of the Bids shall be delivered by the applicable deadline (or within one business day thereafter) to the Notice Parties at the following addresses: (a) the Receiver, Rosen Goldberg Inc., 5255 Yonge St, North York, ON M2N 5P8, Attn. Brahm Rosen, and (b) counsel to the Receiver, Dickinson Wright LLP, 199 Bay Street, Suite 2200, Toronto, ON M5L 1G4, Attn. David Preger. A Bid received after the Phase I Bid Deadline shall not constitute a Phase I Bid and a Phase II Bid received after the Phase II Bid Deadline shall be disqualified. A Bid shall be delivered to all Notice Parties at the same time.

4. Participant Requirements

Phase I Participant Requirements.

To participate in Phase I of the Sale Procedure and to otherwise be considered for any purpose hereunder, each Interested Party must provide the Receiver with each of the following prior to being provided with the Confidential Information Memorandum and access to the Confidential Data Room: (i) an executed Confidentiality Agreement; and (ii) an executed Acknowledgement of Sale Procedure (collectively, the "Phase I Participant Requirements").

Phase II Participant Requirements.

Only Qualified Phase I Bidders shall be allowed to participate in Phase II of the Sale Procedure. In order for the Receiver to determine whether an Interested Party is a Qualified Phase I Bidder, the Interested Party must provide, in form and substance satisfactory to the Receiver, each of the following on or before the Phase I Bid Deadline:

- (a) Identification of Phase I Bidder. Identification of the Phase I Bidder and any Principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) Non-Binding Expression of Interest. An executed non-binding indication of interest satisfactory to the Receiver that must reasonably identify the contemplated transaction, the proposed purchase price, and conditions precedent to closing;
- (c) Corporate Authority. Written evidence of the approval of the Phase I Bid by the Phase I Bidder's chief executive officer or other appropriate senior executive; provided, however, that, if the Phase I Bidder is an Acquisition Entity, then the Phase I Bidder must furnish written evidence reasonably acceptable to the Receiver of the approval of the Phase I Bid by the Acquisition Entity's Principals; and
- (d) Proof of Financial Ability to Perform. Written evidence upon which the Receiver may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:

- (i) the Phase I Bidder's or, in the case of an Acquisition Entity, the Principals', current financial statements (audited if they exist);
- (ii) contact names and numbers for verification of financing sources;
- (iii) evidence of the Phase I Bidder's or Principals' internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and
- (iv) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Receiver demonstrating that such Phase I Bidder has the ability to close the contemplated transaction;

provided, however, that the Receiver shall determine, in its reasonable discretion, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Phase I Bidder's financial qualifications.

5. Designation as Qualified Bidder

Following the Phase I Bid Deadline, the Receiver shall determine which Phase I Bidders are Qualified Phase I Bidders. The Receiver shall notify each Phase I Bidder of its determination as to whether the Phase I Bidder is a Qualified Phase I Bidder as soon as practicable after the Phase I Bid Deadline.

Following the Phase II Bid Deadline, the Receiver shall determine which Phase II Bidders are Qualified Phase II Bidders. The Receiver shall notify each Phase II Bidder of its determination as to whether the Phase II Bidder is a Qualified Phase II Bidder as soon as practicable after the Phase II Bid Deadline.

For greater certainty, the Stalking Horse Bidder is and is deemed to be a Qualified Phase I Bidder and a Qualified Phase II Bidder for all purposes of this Sale Procedure.

6. Access to Due Diligence Materials

Only Interested Parties that satisfy the Phase I Participant Requirements will be eligible to receive the Confidential Information Memorandum and access the Confidential Data Room. If the Receiver determines that a Phase I Bidder does not constitute a Qualified Phase I Bidder, then such Phase I Bidder shall not be eligible to receive any additional due-diligence access, additional nonpublic information or any further access to the Confidential Data Room.

The Receiver will be responsible for the coordination of all reasonable requests for additional information and due-diligence access from Qualified Phase I Bidders. Neither the Receiver nor Cushman & Wakefield shall be obligated to furnish any due diligence information after the Phase II Bid Deadline. Neither the Receiver nor Cushman & Wakefield shall be responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Remaining Property.

7. Information From Interested Parties

Each Interested Party shall comply with all reasonable requests for additional information by the Receiver regarding such Interested Party and its contemplated transaction. Failure by an Interested Party to comply with requests for additional information will be a basis for the Receiver to determine that the Interested Party is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as applicable.

8. Phase II Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid. In order to be considered a Qualified Phase II Bid, as determined by the Receiver, a Phase II Bid must satisfy each of the following conditions:

- (a) Written Submission of Modified APA and Commitment to Close. The Phase II Bid must be submitted by the Phase II Bid Deadline in the form of a Modified APA (together with a blackline of the Modified APA against the Stalking Horse Agreement), and a written and binding commitment to close on the terms and conditions set forth therein.
- (b) Irrevocable. A Phase II Bid must be received by the Phase Bid II Deadline, in accordance with Section 3 above, and must be irrevocable until date on which the Receiver obtains court approval of the Successful Bid, subject to the provisions hereof regarding the Back-up Bid being deemed to be the Successful Bid;
- (c) Conditions. A Phase II Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other terms and conditions associated with a Phase II Bid may not, in aggregate, be more burdensome than those set forth in the Stalking Horse Agreement;
- (d) Financing Sources. A Phase II Bid must be accompanied by written evidence of a commitment for financing or other evidence of the ability to consummate the transaction satisfactory to the Receiver and appropriate contact information for such financing sources must be provided;
- (e) No Fees payable to Qualified Phase II Bidder. A Phase II Bid may not request or entitle the Qualified Phase II Bidder to any break fee, expense reimbursement or similar type of payment;
- (f) Good-Faith Deposit. Each Phase II Bid must be accompanied by a Good Faith Deposit that shall be paid to the Receiver by wire transfer or banker's draft, to be held by the Receiver in trust in accordance with this Sale Procedure; and
- (g) Stalking Horse Purchase Price. The purchase price in a Phase II Bid must be in accordance with Section 11 below.

The Receiver shall be entitled to seek additional information and clarifications from Phase II Bidders in respect of their Phase II Bids at any time.

9. Furthers Bid by the Stalking Horse Bidder or Romspen

The Stalking Horse Bidder, Romspen or a person related thereto shall be entitled to make .

10. Determination of Successful Bid

If no Qualified Phase II Bid other than the Stalking Horse Bid is received by the Phase II Bid Deadline, then the Sale Procedure shall be terminated and the Stalking Horse Bidder shall be declared the Successful Bidder. If the Stalking Horse Bidder is declared the Successful Bidder, the Receiver shall as soon as reasonably practicable seek approval of, and authority to consummate, the Stalking Horse Agreement and the transactions provided for therein at the Sale Hearing and the Receiver shall post notice of such facts on its website established in connection with the Receivership Proceeding.

If one or more Qualified Phase II Bid other than the Stalking Horse Bid is received by the Phase II Bid Deadline, and the Receiver determines such Qualified Phase II Bid(s) to be greater than the Stalking Horse Bid, the Receiver shall have the option to:

- (a) Conduct an auction amongst the Qualified Phase II Bidders, on terms to be determined by the Receiver, to determine the Successful Bid and the Back-up Bid;
- (b) Negotiate with the Qualified Phase II Bidders and determine the Successful Bid and the Back-up Bid; or
- (c) Determine which of the Qualified Phase II Bids shall be the Successful Bid and which of the Qualified Phase II Bids shall be the Back-up Bid.

11. Increments of Phase II Bids

The minimum purchase price of any Phase II Bid must be the sum of the Purchase Price (as defined in the Stalking Horse Agreement) plus the Break Fee.

12. Acceptance of Successful Bid

The Receiver shall complete the sale transaction with the Successful Bidder following approval of the Successful Bid by the Court. The Receiver will be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by the Court. The Receiver will be deemed to have accepted a Back-up Bid only when it has been approved by the Court and has been deemed to be a Successful Bid.

13. Break Fee

In consideration for the Purchaser's expenditure of time and money in acting as the initial bidder in the stalking horse bid and the preparation and negotiation of the Stalking Horse Agreement and subject to the terms and condition of that Agreement and of the Sale Procedure Order, upon termination of the Stalking Horse Agreement by the Receiver or the closing of a sale and a transfer, or a series of sale of transfers, of substantially all of the Remaining Property to one or more parties other than Romspen (an "**Alternative Transaction**"), the Receiver shall pay to Romspen from the proceeds of an Alternative Transaction a break fee which includes re-imbusement of Romspen's expenses in connection with this transaction (the "**Break Fee**") equal to 1.5% of the final purchase price in the Stalking Horse Bid, after adjustments. Payment of the Break Fee shall be made by the Receiver upon Court approval of said payment after consummation of the Alternative Transaction. Upon payment of the Break Fee to Romspen, Romspen and the Receiver shall have no further obligations under the Stalking Horse Agreement.

14. "As Is, Where Is"

The sale of any of the Remaining Property pursuant to this Sale Procedure shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Receiver, Cushman & Wakefield or their respective officers, directors, employees or agents except to the extent set forth in the Successful Bid. The Stalking Horse Bidder and each Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Remaining Property prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Remaining Property in making its Bid, and 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 Remaining Property, or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Procedure or (a) as to the Stalking Horse Bidder, the terms of the sale of the Remaining Property shall be set forth in the Stalking Horse Agreement, or (b) as to another Successful Bidder, the terms of the sale of the Remaining Property shall be set forth in the applicable purchase agreement

15. Free Of Any And All Encumbrances

Except as otherwise provided in each Successful Bid, the Remaining Property shall be sold free and clear of all Encumbrances, in accordance with a vesting order of the Court, with all Encumbrances on or against the Remaining Property to attach to the net proceeds of the sale of the Remaining Property after completion of each such sale under a Successful Bid.

16. Sale Hearing

A Sale Hearing shall be conducted by the Court as soon as practicable after the determination by the Receiver of the Successful Bidder. If the Successful Bid is approved by the Court and the Successful Bidder fails to consummate the transaction in accordance with the terms and conditions of the Successful Bid, the Receiver shall, provided it is so authorized by the Court, be entitled, but not required, to deem the Back-up Bid the Successful Bid and the Receiver shall be authorized, but not required, to consummate the

transaction with the Back-up Bidder and upon so doing the Back-up Bidder shall be deemed to be the Successful Bidder, subject to approval by the Court, which approval may be sought by the Receiver on a conditional basis at the Sale Hearing, at the Receiver's discretion.

17. Return of Good Faith Deposit

Good Faith Deposits of all Qualified Phase II Bidders shall be held in an account of the Receiver. Good Faith Deposits of all Qualified Phase II Bidders, other than the Successful Bidder and the Back-up Bidder, shall be returned to such Qualified Phase II Bidders within three (3) business days after the selection of the Successful Bidder and Back-up Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Good Faith Deposit of the Back-up Bidder shall be returned to the Back-up Bidder within three (3) business days after the closing of the transaction(s) contemplated by the Successful Bid. If a Successful Bidder (including any Back-up Bidder deemed to be a Successful Bidder hereunder) fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-up Bidder, the Good Faith Deposit of the Back-up Bidder shall be applied to the purchase price of the transaction(s) contemplated by the purchase agreement of the Back-up Bidder at closing.

18. Modifications and Reservations

This Sale Procedure may be modified or amended by the Receiver provided that if such modification or amendment materially deviates from this Sale Procedure, such modification or amendment may only be made by order of the Court.

**SCHEDULE G
SALE PROCEDURE ORDER**

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	MONDAY, THE 30 th DAY
)	
JUSTICE)	OF OCTOBER, 2017

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

**HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.**

Respondents

**APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O.1990, C. C.43, AS AMENDED, AND SECTION 243 OF THE *BANKRUPTCY
AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3 AS AMENDED**

**ORDER
(Re: Sale Procedure Approval)**

THIS MOTION, made by Rosen Goldberg Inc., in its capacity as the Court-appointed receiver (the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the *Courts of Justice Act* of the assets, property and undertaking of Horseshoe Valley Lands Ltd. and Horseshoe Ridge Homes Inc. (collectively, the "**Debtors**"), *inter alia*, for an order (a) approving the sale

procedure, substantially in the form attached as Schedule "A" hereto (the "**Sale Procedure**"), (b) approving an asset purchase agreement (the "**Stalking Horse Agreement**") with Romspen Investment Corporation, in trust (the "**Stalking Horse Bidder**"), as purchaser, and (c) sealing and treating as confidential Confidential Appendix 1 to the Fifth report of the Receiver dated October 23, 2017 (the "**Fifth Report**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fifth Report and on hearing the submissions of counsel for the Receiver and the Stalking Horse Bidder, no one appearing for any other person on the Service List, although properly served as appears from the affidavit of [NAME] sworn October 24, 2017, filed:

DEFINITIONS

1. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings set out in the Sale Procedure.

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.

SALE PROCEDURE

3. **THIS COURT ORDERS** that the Sale Procedure substantially in the form attached as **Schedule "A"** hereto is hereby approved.

4. **THIS COURT ORDERS** that the Receiver is hereby authorized to carry out the Sale Procedure and to take such steps and execute such documentation as may be necessary or incidental to the Sale Procedure.

STALKING HORSE AGREEMENT

5. **THIS COURT ORDERS** that the Stalking Horse Agreement is hereby approved, provided that the approval of any sale of the Purchased Assets (as defined therein) by the Court will be subject to a subsequent motion to be held in accordance with the Sale Procedure.

APPROVAL OF RECEIVER'S REPORT

6. **THIS COURT ORDERS** that the Fifth Report and the activities of the Receiver described therein are hereby approved.

7. **THIS COURT ORDERS** that Confidential Appendix 1 to the Fifth Report be and is hereby sealed pending further Order of the Court.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

8. **THIS COURT ORDERS** that the Receiver's interim statement of receipts and disbursements appended to the Fourth Report is hereby approved

GENERAL

9. **THIS COURT ORDERS** that the Receiver may apply from time to time to this Court for advice and directions in the discharge of its powers and duties hereunder.

Schedule "A"

Sale Procedure

Pursuant to a receivership application issued on July 22, 2016, by Romspen Investment Corporation bearing Court file No. CV-16-111468-00CL (the "**Receivership Proceeding**"), and an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") therein dated November 29, 2016 (as amended by Order of the Court dated December 22, 2016, and as may in the future be supplemented, amended or restated from time to time, and collectively the "**Appointment Order**"), Rosen Goldberg Inc. (the "**Receiver**") was appointed receiver, without security, of the assets, property and undertaking (collectively, the "**Property**") of each of Horseshoe Valley Lands Ltd ("**HVL**") and Horseshoe Ridge Homes Inc. ("**HRH**" and with HVL collectively, the "**Debtors**").

At the time of the making of the Appointment Order, HVL's real property consisted of vacant lands in the Township of Oro-Medonte, in the vicinity of the Horseshoe Valley Resort (the "**Lands**") which were being developed for residential use by HVL (the "**Project**"). The Lands were comprised of :

- (a) 29 single family lots, on the south side of Horseshoe Valley Road (the "**29 Single Family Lots**");
- (b) 19 townhouse lots on the south side of Horseshoe Valley Road, 9 of which are serviced and 11 of which are unserviced (the "**Townhouse Lots**");
- (c) 1 unserviced single family lot on the south side of Horseshoe Valley Road (the "**1 Unserved Single Family Lot**");
- (d) 1 unserviced commercial/institutional lot on the south side of Horseshoe Valley Road;
- (e) 67 acres approved for 789 residential units on the south side of Horseshoe Valley Road;
- (f) 109.9 acres zoned 50% rural agricultural and 50% environmental on the north side of Horseshoe Valley Road;
- (g) 3.91 acres zoned for agricultural uses on the south side of Horseshoe Valley Road; and
- (h) 52.75 acres, substantially all of which are zoned for residential development, on the north side of Horseshoe Valley Road;

HVL marketed the Lands for sale through HRH.

The Property, excluding the 29 Single Family Lots, the Townhouse Lots and the 1 Unserved Single Family Lot, comprises the "**Remaining Property**"

On October 30, 2017, the Court made an order (the "**Sale Procedure Order**")

among other things, approving (a) the Receiver's entry into a certain agreement of purchase and sale for the Remaining Property between the Receiver and Romspen Investment Corporation as purchaser (the "**Stalking Horse Bidder**") dated October 20, 2017 (the "**Stalking Horse Agreement**") so as to set a minimum floor price in respect of the Receiver's sales process; and (b) this Sale Procedure for the solicitation of offers or proposals (each a "**Bid**") for the acquisition of the Remaining Property, or some portion thereof.

Accordingly, the following Sale Procedure shall govern the proposed sale of all or substantially all of the Remaining Property pursuant to one or more Bids. This Sale Procedure shall govern the sales process relating to the solicitation by the Receiver of one or more Bids for the Remaining Property that, alone or in combination, are superior to that contemplated by the Stalking Horse Agreement.

All denominations are in Canadian Dollars.

1. Definitions

Capitalized terms used in this Sale Procedure shall have the definitions given to them in the preamble hereto and as follows:

"**Acknowledgement of Sale Procedure**" means an acknowledgement of the Sale Procedure in the form attached as **Schedule A** hereto;

"**Acquisition Entity**" means an entity specially formed for the purpose of effectuating the contemplated transaction;

"**Back-up Bid**" means the next highest and/or best Qualified Phase II Bid after the Successful Bid, as assessed by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale;

"**Back-up Bidder**" means the bidder submitting the Back-up Bid;

"**Bidder**" means a Qualified Phase I Bidder or a Qualified Phase II Bidder;

"**Accounts Receivable**" means (i) all accounts receivable owing to any or both of the Debtors.

"**Confidential Data Room**" means a private data room prepared and maintained by the Receiver containing confidential information in respect of or related to the Remaining Property;

"**Confidential Information Memorandum**" means a confidential information memorandum prepared by the Receiver providing certain confidential information in respect of or related to the Remaining Property;

"**Confidentiality Agreement**" means an executed confidentiality agreement in

form and substance acceptable to the Receiver and its counsel;

"Cushman & Wakefield" means Cushman & Wakefield Ltd. in its capacity as marketing and listing agent to the Receiver pursuant to an engagement agreement to be dated as of October 30, 2017;

"Encumbrances" means, collectively, all pledges, liens, security interests, encumbrances, claims, charges, options, and interests;

"Good Faith Deposit" means a cash deposit equal to ten (10) percent of the total purchase price contemplated under the applicable Modified APA;

"Interested Party" means a party participating in this Sale Procedure;

"Modified APA" means an executed mark-up of the Stalking Horse Agreement reflecting the applicable Qualified Phase I Bidder's proposed changes to the Stalking Horse Agreement;

"Notice Parties" means the Receiver and Dickinson Wright LLP;

"Participant Requirements" means, collectively, the requirements set out in Section 4(a) through 4e(iv) hereof;

"Phase I Bid" means an initial Bid submitted by an Interested Party pursuant to Section 4 hereof;

"Phase I Bid Deadline" means 10:00 a.m. (Eastern time) on December 8, 2017;

"Phase I Bidder" means a bidder submitting a Phase I Bid;

"Phase I Participant Requirements" has the meaning given to it in Section 4 hereof;

"Phase II Bid" means a Bid submitted by a Qualified Phase I Bidder pursuant to Section 9 hereof;

"Phase II Bid Deadline" means 10:00 a.m. (Eastern time) on December 15, 2017;

"Principals" means, collectively, the equity holder(s) of an Acquisition Entity and any guarantor of any Bid made by such Acquisition Entity;

"Qualified Phase I Bidder" means a Phase I Bidder that delivers the documents described in paragraphs (a) through (e) in Section 4, and that the Receiver determines is reasonably likely to submit a binding *bona fide* offer that would have an aggregate purchase price for the Remaining Property that exceeds the Stalking Horse Purchase Price and would be able to consummate a transaction if selected as a Successful Bidder;

"Qualified Phase II Bid" means a Phase II Bid that satisfies the conditions set out in Section 8 hereof;

"Qualified Phase II Bidder" means a bidder submitting a Qualified Phase II Bid;

"Sale Hearing" means a hearing to approve the sale of Remaining Property to the Successful Bidder;

"Romspen" means Romspen Investment Corporation in its capacity as the senior secured lender of the Debtors;

"Stalking Horse Purchase Price" means \$20,400,000.00;

"Successful Bid" means the highest and best Qualified Phase II Bid as determined by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale; and

"Successful Bidder" means the Bidder submitting the Successful Bid.

2. Assets for Sale

The Receiver is soliciting superior offers for all of and not less than all of the Remaining Property (as defined in the Stalking Horse Agreement).

For the purposes of this Sale Procedure, Bids may be submitted only for the entire Remaining Property.

3. Sale Procedure Structure and Bidding Deadlines

The Sale Procedure shall consist of two phases. In the first phase, Interested Parties that meet the preliminary participant requirements set out herein, including having executed a Confidentiality Agreement, shall be provided the Confidential Information Memorandum in order to prepare and submit their Phase I Bid by the Phase I Bid Deadline and be given access to additional confidential information in the Confidential Data Room. Phase I Bidders that are determined by the Receiver to be Qualified Phase I Bidders shall be invited to participate in the second phase to submit a Phase II Bid.

The Receiver will be engaging Cushman & Wakefield as marketing and listing agent to assist the Receiver with the implementation of the Sale Procedure. Interested Parties wishing to obtain information about the Sale Procedure, a copy of the Confidentiality Agreement and information in connection with their due diligence, should contact Cushman & Wakefield, Attn. Peter Deguerre (peter.deguerre@cushwake.com), and the Receiver, Rosen Goldberg Inc., Attn. Brahm Rosen (brosen@rosengoldberg.com).

All Phase I Bids must be submitted to the Notice Parties by email in accordance with the terms of this Sale Procedure so that they are actually received by each of the Notice Parties no later than the Phase I Bid Deadline. All Phase II Bids must be

submitted to the Notice Parties by email in accordance with the terms of this Sale Procedure so that they are actually received by each of the Notice Parties no later than the Phase II Bid Deadline. In addition, written copies of the Bids shall be delivered by the applicable deadline (or within one business day thereafter) to the Notice Parties at the following addresses: (a) the Receiver, Rosen Goldberg Inc., 5255 Yonge St, North York, ON M2N 5P8, Attn. Brahm Rosen, and (b) counsel to the Receiver, Dickinson Wright LLP, 199 Bay Street, Suite 2200, Toronto, ON M5L 1G4, Attn. David Preger. A Bid received after the Phase I Bid Deadline shall not constitute a Phase I Bid and a Phase II Bid received after the Phase II Bid Deadline shall be disqualified. A Bid shall be delivered to all Notice Parties at the same time.

4. Participant Requirements

Phase I Participant Requirements.

To participate in Phase I of the Sale Procedure and to otherwise be considered for any purpose hereunder, each Interested Party must provide the Receiver with each of the following prior to being provided with the Confidential Information Memorandum and access to the Confidential Data Room: (i) an executed Confidentiality Agreement; and (ii) an executed Acknowledgement of Sale Procedure (collectively, the "Phase I Participant Requirements").

Phase II Participant Requirements.

Only Qualified Phase I Bidders shall be allowed to participate in Phase II of the Sale Procedure. In order for the Receiver to determine whether an Interested Party is a Qualified Phase I Bidder, the Interested Party must provide, in form and substance satisfactory to the Receiver, each of the following on or before the Phase I Bid Deadline:

- (a) Identification of Phase I Bidder. Identification of the Phase I Bidder and any Principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) Non-Binding Expression of Interest. An executed non-binding indication of interest satisfactory to the Receiver that must reasonably identify the contemplated transaction, the proposed purchase price, and conditions precedent to closing;
- (c) Corporate Authority. Written evidence of the approval of the Phase I Bid by the Phase I Bidder's chief executive officer or other appropriate senior executive; provided, however, that, if the Phase I Bidder is an Acquisition Entity, then the Phase I Bidder must furnish written evidence reasonably acceptable to the Receiver of the approval of the Phase I Bid by the Acquisition Entity's Principals; and
- (d) Proof of Financial Ability to Perform. Written evidence upon which the Receiver may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated

transaction. Such information should include, among other things, the following:

- (i) the Phase I Bidder's or, in the case of an Acquisition Entity, the Principals', current financial statements (audited if they exist);
- (ii) contact names and numbers for verification of financing sources;
- (iii) evidence of the Phase I Bidder's or Principals' internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and
- (iv) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Receiver demonstrating that such Phase I Bidder has the ability to close the contemplated transaction;

provided, however, that the Receiver shall determine, in its reasonable discretion, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Phase I Bidder's financial qualifications.

5. Designation as Qualified Bidder

Following the Phase I Bid Deadline, the Receiver shall determine which Phase I Bidders are Qualified Phase I Bidders. The Receiver shall notify each Phase I Bidder of its determination as to whether the Phase I Bidder is a Qualified Phase I Bidder as soon as practicable after the Phase I Bid Deadline.

Following the Phase II Bid Deadline, the Receiver shall determine which Phase II Bidders are Qualified Phase II Bidders. The Receiver shall notify each Phase II Bidder of its determination as to whether the Phase II Bidder is a Qualified Phase II Bidder as soon as practicable after the Phase II Bid Deadline.

For greater certainty, the Stalking Horse Bidder is and is deemed to be a Qualified Phase I Bidder and a Qualified Phase II Bidder for all purposes of this Sale Procedure.

6. Access to Due Diligence Materials

Only Interested Parties that satisfy the Phase I Participant Requirements will be eligible to receive the Confidential Information Memorandum and access the Confidential Data Room. If the Receiver determines that a Phase I Bidder does not constitute a Qualified Phase I Bidder, then such Phase I Bidder shall not be eligible to receive any additional due-diligence access, additional nonpublic information or any further access to the Confidential Data Room.

The Receiver will be responsible for the coordination of all reasonable requests for additional information and due-diligence access from Qualified Phase I Bidders. Neither the Receiver nor Cushman & Wakefield shall be obligated to furnish any due diligence information after the Phase II Bid Deadline. Neither the Receiver nor Cushman

& Wakefield shall be responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Remaining Property.

7. Information From Interested Parties

Each Interested Party shall comply with all reasonable requests for additional information by the Receiver regarding such Interested Party and its contemplated transaction. Failure by an Interested Party to comply with requests for additional information will be a basis for the Receiver to determine that the Interested Party is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as applicable.

8. Phase II Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid. In order to be considered a Qualified Phase II Bid, as determined by the Receiver, a Phase II Bid must satisfy each of the following conditions:

- (a) Written Submission of Modified APA and Commitment to Close. The Phase II Bid must be submitted by the Phase II Bid Deadline in the form of a Modified APA (together with a blackline of the Modified APA against the Stalking Horse Agreement), and a written and binding commitment to close on the terms and conditions set forth therein.
- (b) Irrevocable. A Phase II Bid must be received by the Phase Bid II Deadline, in accordance with Section 3 above, and must be irrevocable until date on which the Receiver obtains court approval of the Successful Bid, subject to the provisions hereof regarding the Back-up Bid being deemed to be the Successful Bid;
- (c) Conditions. A Phase II Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other terms and conditions associated with a Phase II Bid may not, in aggregate, be more burdensome than those set forth in the Stalking Horse Agreement;
- (d) Financing Sources. A Phase II Bid must be accompanied by written evidence of a commitment for financing or other evidence of the ability to consummate the transaction satisfactory to the Receiver and appropriate contact information for such financing sources must be provided;
- (e) No Fees payable to Qualified Phase II Bidder. A Phase II Bid may not request or entitle the Qualified Phase II Bidder to any break fee, expense reimbursement or similar type of payment;
- (f) Good-Faith Deposit. Each Phase II Bid must be accompanied by a Good Faith Deposit that shall be paid to the Receiver by wire transfer or banker's draft, to be held by the Receiver in trust in accordance with this Sale Procedure; and

- (g) Stalking Horse Purchase Price. The purchase price in a Phase II Bid must be in accordance with Section 11 below.

The Receiver shall be entitled to seek additional information and clarifications from Phase II Bidders in respect of their Phase II Bids at any time.

9. Furthers Bid by the Stalking Horse Bidder or Romspen

The Stalking Horse Bidder, Romspen or a person related thereto shall be entitled to make .

10. Determination of Successful Bid

If no Qualified Phase II Bid other than the Stalking Horse Bid is received by the Phase II Bid Deadline, then the Sale Procedure shall be terminated and the Stalking Horse Bidder shall be declared the Successful Bidder. If the Stalking Horse Bidder is declared the Successful Bidder, the Receiver shall as soon as reasonably practicable seek approval of, and authority to consummate, the Stalking Horse Agreement and the transactions provided for therein at the Sale Hearing and the Receiver shall post notice of such facts on its website established in connection with the Receivership Proceeding.

If one or more Qualified Phase II Bid other than the Stalking Horse Bid is received by the Phase II Bid Deadline, and the Receiver determines such Qualified Phase II Bid(s) to be greater than the Stalking Horse Bid, the Receiver shall have the option to:

- (a) Conduct an auction amongst the Qualified Phase II Bidders, on terms to be determined by the Receiver, to determine the Successful Bid and the Back-up Bid;
- (b) Negotiate with the Qualified Phase II Bidders and determine the Successful Bid and the Back-up Bid; or
- (c) Determine which of the Qualified Phase II Bids shall be the Successful Bid and which of the Qualified Phase II Bids shall be the Back-up Bid.

11. Increments of Phase II Bids

The minimum purchase price of any Phase II Bid must be the sum of the Purchase Price (as defined in the Stalking Horse Agreement) plus the Break Fee.

12. Acceptance of Successful Bid

The Receiver shall complete the sale transaction with the Successful Bidder following approval of the Successful Bid by the Court. The Receiver will be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by the Court. The Receiver will be deemed to have accepted a Back-up Bid only when it has been approved by the Court and has been deemed to be a Successful Bid.

13. **Break Fee**

In consideration for the Purchaser's expenditure of time and money in acting as the initial bidder in the stalking horse bid and the preparation and negotiation of the Stalking Horse Agreement and subject to the terms and condition of that Agreement and of the Sale Procedure Order, upon termination of the Stalking Horse Agreement by the Receiver or the closing of a sale and a transfer, or a series of sale of transfers, of substantially all of the Remaining Property to one or more parties other than Romspen (an "**Alternative Transaction**"), the Receiver shall pay to Romspen from the proceeds of an Alternative Transaction a break fee which includes re-imbusement of Romspen's expenses in connection with this transaction (the "**Break Fee**") equal to 1.5% of the final purchase price in the Stalking Horse Bid, after adjustments. Payment of the Break Fee shall be made by the Receiver upon Court approval of said payment after consummation of the Alternative Transaction. Upon payment of the Break Fee to Romspen, Romspen and the Receiver shall have no further obligations under the Stalking Horse Agreement.

14. **"As Is, Where Is"**

The sale of any of the Remaining Property pursuant to this Sale Procedure shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Receiver, Cushman & Wakefield or their respective officers, directors, employees or agents except to the extent set forth in the Successful Bid. The Stalking Horse Bidder and each Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Remaining Property prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Remaining Property in making its Bid, and 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 Remaining Property, or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Procedure or (a) as to the Stalking Horse Bidder, the terms of the sale of the Remaining Property shall be set forth in the Stalking Horse Agreement, or (b) as to another Successful Bidder, the terms of the sale of the Remaining Property shall be set forth in the applicable purchase agreement

15. **Free Of Any And All Encumbrances**

Except as otherwise provided in each Successful Bid, the Remaining Property shall be sold free and clear of all Encumbrances, in accordance with a vesting order of the Court, with all Encumbrances on or against the Remaining Property to attach to the net proceeds of the sale of the Remaining Property after completion of each such sale under a Successful Bid.

16. **Sale Hearing**

A Sale Hearing shall be conducted by the Court as soon as practicable after the determination by the Receiver of the Successful Bidder. If the Successful Bid is approved by the Court and the Successful Bidder fails to consummate the transaction in accordance with the terms and conditions of the Successful Bid, the Receiver shall, provided it is so

authorized by the Court, be entitled, but not required, to deem the Back-up Bid the Successful Bid and the Receiver shall be authorized, but not required, to consummate the transaction with the Back-up Bidder and upon so doing the Back-up Bidder shall be deemed to be the Successful Bidder, subject to approval by the Court, which approval may be sought by the Receiver on a conditional basis at the Sale Hearing, at the Receiver's discretion.

17. Return of Good Faith Deposit

Good Faith Deposits of all Qualified Phase II Bidders shall be held in an account of the Receiver. Good Faith Deposits of all Qualified Phase II Bidders, other than the Successful Bidder and the Back-up Bidder, shall be returned to such Qualified Phase II Bidders within three (3) business days after the selection of the Successful Bidder and Back-up Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Good Faith Deposit of the Back-up Bidder shall be returned to the Back-up Bidder within three (3) business days after the closing of the transaction(s) contemplated by the Successful Bid. If a Successful Bidder (including any Back-up Bidder deemed to be a Successful Bidder hereunder) fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-up Bidder, the Good Faith Deposit of the Back-up Bidder shall be applied to the purchase price of the transaction(s) contemplated by the purchase agreement of the Back-up Bidder at closing.

18. Modifications and Reservations

This Sale Procedure may be modified or amended by the Receiver provided that if such modification or amendment materially deviates from this Sale Procedure, such modification or amendment may only be made by order of the Court.

ROMSPEN INVESTMENT CORPORATION
Applicant

-and- **HORSESHOE VALLEY LANDS LTD.**
Respondents

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Sale Procedure Approval)

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

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Fax: (844) 670-6009

Lawyers for Rosen Goldberg Inc. in its capacity
as Receiver of Horseshoe Valley Lands Ltd.
and Horseshoe Ridge Homes Inc.

**SCHEDULE H
VESTING ORDER**

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

THE HONOURABLE)	MONDAY, THE 30 th
)	
JUSTICE)	DAY OF OCTOBER, 2017

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

**HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.**

Respondents

VESTING ORDER

THIS MOTION, made by Rosen Goldberg Inc. in its capacity as Court-appointed receiver and manager (the “Receiver”) of the assets, undertakings and properties of each of Horseshoe Valley Lands Ltd and Horseshoe Ridge Homes Inc. (collectively, the “Debtors”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**APA**”) between the Receiver and Romspen Investment Corporation (the “**Purchaser**”) dated October 20, 2017, vesting in the Purchaser, all right, title and interest of the Debtors in and to the assets and real property described in the APA (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fifth Report of the Receiver dated October 23, 2017 and on hearing the submissions of counsel for the Receiver, counsel for the Applicant and counsel for Jim Cooper, no one appearing for any other person on the service list, although properly served as appears from the affidavit of _____ sworn _____, 2017, filed,

1. THIS COURT ORDERS AND DECLARES that the time for service of the Notice of Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the APA by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the APA and Schedules "B1" (Real Property), "B2" (Assigned Contract), "B3" (Miscellaneous) hereto, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Newbould dated November 29, 2016 and the Order of the Honourable Justice Wilton-Siegel dated December 22, 2016; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all

of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Titles Division for the Land Registry Office of Simcoe (No. 51) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "B1" hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "C" hereto.

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable

transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

-and-

HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES LTD.

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (the “**Superior Court**”) dated November 29, 2016, as subsequently amended by an Order of the Honourable Justice Wilton-Siegel of the Superior Court dated December 22, 2016, Rosen Goldberg Inc. was appointed as the receiver and manager (the “**Receiver**”) of the undertaking, property and assets of Horseshoe Valley Lands Ltd. and Horseshoe Ridge Homes Inc. (collectively, the “**Debtors**”).

C. Pursuant to an Order of the Superior Court dated October 30, 2017, the Superior Court approved the asset purchase agreement made as of _____, 2017 (the “**APA**”) between the Receiver and Romspen Investment Corporation (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtors’ right, title and interest in and to the Purchased Assets,

which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the APA have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APA;
2. The conditions to Closing as set out in the APA have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____, 2017.

**ROSEN GOLDBERG INC., in its capacity as
Court-appointed Receiver of the assets,
undertakings and properties of Horseshoe
Valley Lands Ltd. and Horseshoe Ridge
Hones Ltd., and not in its personal or
corporate capacity**

Per: _____

Name: Brahm Rosen

Title: President

Schedule "B1" – Purchased Assets

Real Property

Legal Description

Schedule "B2" – Purchased Assets
Assigned Contracts

Schedule "B3" – Purchased Assets**Miscellaneous**

Schedule "C" – Instruments to be deleted and expunged from title to the Real Property

1. Instrument No. SC819690 registered May 13, 2010 against PINs 74055-0223(LT), 74055-0272(LT), 74055-0387(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT) and 74055-0338(LT), being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$5,000,000.00.
2. Instrument No. SC819691 registered May 10, 2010 against PINs 74055-0223(LT), 74055-0272(LT), 74055-0387(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT) and 74055-0338(LT), being a Notice of Assignment of Rents - General granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation.
3. Instrument No. SC835383 registered July 6, 2010 against PINs 74055-0272(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT) and 74055-0338(LT), being Notice of an agreement between Romspen Investment Corporation and Horseshoe Valley Lands Ltd. to amend the Charge/Mortgage registered as Instrument No. SC819690.
4. Instrument No. SC864692 registered November 9, 2010 against PINs 74055-0223(LT), 74055-0387(LT), 74055-0337(LT) and 74055-0338(LT), being Notice of an agreement between Romspen Investment Corporation and Horseshoe Valley Lands Ltd. to amend the Charge/Mortgage registered as Instrument No. SC819690.
5. Instrument No. SC942146 registered November 1, 2011 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0223(LT), 74055-0272(LT), 74055-0387(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT), 74055-0338(LT), 58527-0451(LT), 58527-0470(LT), 58527-0461(LT), 58527-0463(LT) and 74056-0052(LT), being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$10,000,000.00.
6. Instrument No. SC942147 registered November 1, 2011 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0223(LT), 74055-0272(LT), 74055-0387(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT), 74055-0338(LT), 58527-0451(LT), 58527-0470(LT), 58527-0461(LT), 58527-0463(LT) and 74056-0052(LT), being a Notice of Assignment of Rents - General granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation.
7. Instrument No. SC957963 registered January 17, 2012 against PINs 74055-0246(LT) and 74055-0247(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC819690 to the Transfer of Easement registered as Instrument No. SC957956.
8. Instrument No. SC957964 registered January 17, 2012 against PINs 74055-0246(LT) and 74055-0247(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage

registered as Instrument No. SC942146 to the Transfer of Easement registered as Instrument No. SC957956.

9. Instrument No. SC971372 registered March 29, 2012 against PINs 58537-0451(LT), 58527-0470(LT), 58527-0461(LT), 58527-0463(LT) and 74056-0052(LT), being a Postponement granted by Romspen Investment Corporation to Skyline Horseshoe Valley Inc. to postpone the Charge/Mortgage registered as Instrument No. SC942146 to the Notice of Option to Purchase registered as Instrument No. SC964646.
10. Instrument No. SC975514 registered April 20, 2012 against PIN 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to Hydro One Networks Inc. to postpone the Charge/Mortgage registered as Instrument No. SC942146 and the Notice of Assignment of Rents – General registered as Instrument No. SC942147 to the Transfer of Easement registered as Instrument No. SC975509.
11. Instrument No. SC975515 registered April 20, 2014 against PIN 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to Hydro One Networks Inc. to postpone the Charge/Mortgage registered as Instrument No. SC819690 and the Notice of Assignment of Rents – General registered as Instrument No. SC819691 to the Transfer of Easement registered as Instrument No. SC975509.
12. Instrument No. SC1054837 registered May 3, 2013 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0223(LT), 74055-0272(LT), 74055-0387(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT), 74055-0338(LT), 58527-0451(LT), 58527-0470(LT), 58527-0461(LT), 58527-0463(LT) and 74056-0052(LT), being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$13,700,000.00.
13. Instrument No. SC1148135 registered July 29, 2014 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0223(LT), 74055-0272(LT), 74055-0387(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT), 74055-0338(LT), 58527-0451(LT), 58527-0470(LT), 58527-0461(LT), 58527-0463(LT) and 74056-0052(LT), being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$26,000,000.00.
14. Instrument No. SC1161874 registered September 23, 2014 against PINs 74055-0337(LT) and 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC819690 to the Notice of Subdivision Agreement registered as Instrument No. SC1158011.
15. Instrument No. SC1161875 registered September 23, 2014 against PINs 74055-0337(LT) and 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC942146 to the Notice of Subdivision Agreement registered as Instrument No. SC1158011.

16. Instrument No. SC1161876 registered September 23, 2014 against PINs 74055-0337(LT) and 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to the Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC1054837 to the Notice of Subdivision Agreement registered as Instrument No. SC1158011.
17. Instrument No. SC1161877 registered September 23, 2014 against PINs 74055-0337(LT) and 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC1148135 to the Notice of Subdivision Agreement registered as Instrument No. SC1158011.
18. Instrument No. SC1161913 registered September 23, 2014 against PIN 74055-0337(LT), being a Postponement granted by Romspen Investment Corporation to Hydro One Networks Inc. to postpone the Charge/Mortgage registered as Instrument No. SC819690 to the Transfer of Easement registered as Instrument No. SC1161908.
19. Instrument No. SC1161904 registered September 23, 2014 against PIN 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC819690 to the Transfer of Easement registered as Instrument No. SC1161884.
20. Instrument No. SC1161905 registered September 23, 2014 against PIN 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC942146 to the Transfer of Easement registered as Instrument No. SC1161884.
21. Instrument No. SC1161906 registered September 23, 2014 against PIN 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to The Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC1054837 to the Transfer of Easement registered as Instrument No. SC1161884.
22. Instrument No. SC1161907 registered September 23, 2014 against PIN 74055-0338(LT), being a Postponement granted by Romspen Investment Corporation to the Corporation of the Township of Oro-Medonte to postpone the Charge/Mortgage registered as Instrument No. SC1148135 to the Transfer of Easement registered as Instrument No. SC1161884.
23. Instrument No. SC1161914 registered September 23, 2014 against PIN 74055-0337(LT), being a Postponement granted by Romspen Investment Corporation to Hydro One Networks Inc. to postpone the Charge/Mortgage registered as Instrument No. SC942146 to the Transfer of Easement registered as Instrument No. SC1161908.
24. Instrument No. SC1161915 registered September 23, 2014 against PIN 74055-0337(LT), being a Postponement granted by Romspen Investment Corporation to Hydro One Networks Inc. to postpone the Charge/Mortgage registered as Instrument No. SC1054837 to the Transfer of Easement registered as Instrument No. SC1161908.

25. Instrument No. SC1161916 registered September 23, 2014 against PIN 74055-0337(LT), being a Postponement granted by Romspen Investment Corporation to Hydro One Networks Inc. to postpone the Charge/Mortgage registered as Instrument No. SC1148135 to the Transfer of Easement registered as Instrument No. SC1161908.
26. Instrument No. SC1282555 registered February 12, 2016 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0223(LT), 74055-0272(LT), 74055-0387(LT), 74055-0246(LT), 74055-0247(LT), 74055-0337(LT), 74055-0338(LT), 58527-0451(LT), 58527-0470(LT), 58527-0461(LT), 58527-0463(LT) and 74056-0052(LT), being a Charge/Mortgage granted by Horseshoe Valley Lands Ltd. to and in favour of Romspen Investment Corporation in the original principal amount of \$26,000,000.00.

**Schedule “D” – Permitted Encumbrances, Easements
and Restrictive Covenants related to the Real Property**

General Encumbrances:

1. Any and all reservations, limitations, provisos and conditions expressed in the original grant from the Crown and unpatented mining claims and Native land claims.
2. Any and all applicable laws, including, without limitation, municipal by-laws, including building and zoning by-laws and decisions of the Committee of Adjustments or any other competent authority permitting variances therefrom, applicable to the Remaining Property.
3. Any and all permits, licenses, easements, rights-of-way, rights in the nature of easements and agreements with respect thereto including, without limitation, registered and unregistered licenses, easements, rights-of-way, rights in the nature of easements for access, public ways, sewers, drains, utilities, gas, steam and water mains or electric light and power, or telephone and telegraphic conduits, poles, wires and cables.
4. Any and all agreements with municipalities including, without limitation, subdivision agreements, development agreements, site plan agreements, servicing agreements and encroachment agreements and airport zoning regulations.
5. Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
6. Any rights of expropriation, access or use or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Ontario.
7. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Remaining Property that have accrued but are not yet due and owing.
8. Restrictive covenants, exclusivity provisions, and other similar land use control agreements.
9. Any statutory liens, charges, adverse claims, prior claims, security interests, deemed trusts or other encumbrances of any nature whatsoever which are not registered on the title to the Remaining Property that are claimed or held by Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of the Province of Ontario or by any other governmental authority under or pursuant to any applicable laws.
10. Any title defects, irregularities or discrepancies in title or possession relating to the Remaining Property that do not have a material adverse effect on the use or marketability of the Remaining Property.

11. Minor encroachments of buildings or structures situate on the Remaining Property onto adjoining lands and minor encroachments of buildings and structures situate on adjoining lands onto the Remaining Property.
12. Security given to a public utility or any municipality or Governmental Authority when required by the operations of the Remaining Property in the ordinary course of business, including without limitation, the right of the municipality to acquire portions of the Remaining Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be providing to the Remaining Property.
13. Undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Remaining Property or of which notice in writing shall not at the time have been given to the Vendor pursuant to the Construction Lien Act (Ontario) and in respect of any of the foregoing cases, the Vendor has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts.
14. Any reference plans or plans registered pursuant to the Boundaries Act (Ontario).
15. The exceptions and qualifications contained in section 44(1) of the *Land Titles Act* (Ontario).

Specific Encumbrances:

1. Instrument No. RO291771 registered March 5, 1969 against PINs 58527-0461(LT) and 58527-0463(LT), being an Order.
2. Instrument No. LT267630 registered August 16, 1994 against PIN 58527-0461(LT), being an Order in respect of Plan 51R-24285.
3. Instrument No. LT313815 registered January 21, 1997 against PINs 58527-0461(LT) and 58527-0463(LT), being a Transfer of Easement in favour of The Corporation of the Township of Oro-Medonte (the "Township").
4. Instrument No. LT501162 registered August 2, 2001 against PIN 58527-0470(LT), being a Notice of an Amending Agreement dated July 30, 2001 between Horseshoe Valley Resort Ltd. and Carriage Hills Vacation Owners Association to amend an easement previously registered as Instrument No. 327069.
5. Instrument No. LT522875 registered November 15, 2001 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0246(LT), 74055-0247(LT) and 74055-0387(LT), being a Transfer of Easement in favour of Horseshoe Valley Resort Ltd.

6. Instrument No. LT522878 registered November 15, 2001 against PINs 74055-0223(LT) and 74055-0387(LT), being a Transfer of Easement in favour of Horseshoe Valley Lands Ltd.
7. Instrument No. SC9488 registered April 2, 2002 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0246(LT), 74055-0247(LT), 74055-0272(LT), 74055-0337(LT) and 74055-0338(LT), being Notice of an Agreement with the Township.
8. Instrument No. SC36251 registered July 10, 2002 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT), 74055-0194(LT), 74055-0246(LT), 74055-0247(LT), 74055-0272(LT), 74055-0337(LT) and 74055-0338(LT), being Notice of an Agreement with the Township.
9. Instrument No. SC106472 registered April 10, 2003 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT) and 74055-0194(LT), being a Plan Document.
10. Instrument No. SC106692 registered April 11, 2003 against PINs 74055-0191(LT), 74055-0192(LT), 74055-0193(LT) and 74055-0194(LT), being Notice of a Subdivision Agreement with the Township.
11. Instrument No. SC108651 registered April 22, 2003 against PINs 74055-0192(LT) and 74055-0193(LT), being a Transfer of Easement in favour of the Township.
12. Instrument No. SC108665 registered April 22, 2003 against PINs 74055-0191(LT) and 74055-0194(LT), being a Transfer of Easement in favour of American Water Services Canada Corp.
13. Instrument No. SC173013 registered November 21, 2003 against PIN 58527-0451(LT), being a Land Registrar's Order.
14. Instrument No. SC255232 registered August 24, 2004 against PIN 58527-0470(LT), being a Notice of an agreement between Horseshoe Valley Resort Ltd., New Millennium Homes Limited and the Township.
15. Instrument No. SC663268 registered July 14, 2008 against PIN 58527-0451(LT), being a Transfer of Easement in favour of Skyline Horseshoe Valley Inc.
16. Instrument No. SC663270 registered July 14, 2008 against PINs 58527-0451(LT), 58527-0461(LT), 58527-0463(LT), 74055-0223(LT), 74055-0246(LT), 74055-0247(LT), 74055-0272(LT), 74055-0337(LT), 74055-0338(LT), 74055-0387(LT), 74055-0470(LT) and 74056-0052(LT), being a Notice of an agreement among Horseshoe Valley Lands Ltd., Horseshoe/Salvil (Medonte) Limited, Skyline Horseshoe Valley Inc. and Skyline Utility Services Inc.
17. Instrument No. SC774233 registered October 15, 2009 against PIN 58527-0470(LT), being a Transfer of Easement in favour of Skyline Horseshoe Valley Inc.

18. Instrument No. SC774235 registered October 15, 2009 against PIN 58527-0470(LT), being a Transfer of Easement in favour of Skyline Horseshoe Valley Inc.
19. Instrument No. SC957955 registered January 17, 2012 against PINs 74055-0246(LT), 74055-0247(LT) and 74055-0338(LT), being Notice of a Subdivision Agreement with the Township.
20. Instrument No. SC957956 registered January 17, 2012 against PINs 74055-0246(LT) and 74055-0247(LT), being a Transfer of Easement in favour of the Township.
21. Instrument No. SC964646 registered February 23, 2012 against PINs 58527-0451(LT), 58527-0461(LT), 58527-0463(LT), 58527-0470(LT) and 74056-0052(LT), being a Notice of Option to Purchase in favour of Skyline Horseshoe Valley Inc.
22. Instrument No. SC975509 registered April 20, 2012 against PIN 74055-0338(LT), being a Transfer of Easement in favour of Hydro One Networks Inc.
23. Instrument No. SC975510 registered April 20, 2012 against PIN 74055-0338(LT), being a Transfer of Easement in favour of Hydro One Networks Inc.
24. Instrument No. SC1158011 registered September 5, 2014 against PINs 74055-0337(LT) and 74055-0338(LT), being Notice of a Subdivision Agreement with the Township.
25. Instrument No. SC1161884 registered September 23, 2014 against PIN 74055-0338(LT), being a Transfer of Easement in favour of the Township.
26. Instrument No. SC1161908 registered September 23, 2014 against PIN 74055-0337(LT), being a Transfer of Easement in favour of Hydro One Networks Inc.
27. Instrument No. SC1162169 registered September 24, 2014 against PIN 74055-0338(LT), being an Application to Annex Restrictive Covenants.
28. Instrument No. SC1219985 registered June 22, 2015 against PINs 74055-0337(LT) and 74055-0338(LT), being a Land Registrar's Order amending the entry in the property description of the dominant easement in Instrument No. LT522878.
29. Instrument No. SC1259861 registered November 10, 2015 against PIN 58527-0451(LT), being a Transfer, Release and Abandonment in respect of Instrument No. LT236559.
30. Instrument No. SC1296981 registered April 19, 2016 against PINs 74055-0387(LT), being an Application to Consolidate.

ROMSPEN INVESTMENT CORPORATION
Applicant

-and-
Respondents

HORSESHOE VALLEY LANDS LTD.

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

VESTING ORDER

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Lawyers for Rosen Goldberg Inc. in its capacity
as Receiver of Horseshoe Valley Lands Ltd.
and Horseshoe Ridge Homes Inc.

**SCHEDULE I
ASSUMED LIABILITIES**

SCHEDULE J
GST/HST NUMBERS OF DEBTORS

HVL - 86725 3478 RT 0001

HRH - 83006 0604 RT0001

APPENDIX E

Rosen Goldberg Inc.; Court Appointed Receiver and Manager of;
Horseshoe Valley Lands Ltd.

Statement of Receipts and Disbursements

For the period November 29, 2016 to October 20, 2017

Receipts

Sale of property	6,657,392
Receiver's borrowings	377,041
Accounts receivable	102,677
Amounts received from Bank of Nova Scotia	17,821
Insurance refund	3,408
	<u>7,158,339</u>

Disbursements

Management and development costs	812,554
Repayment of receiver's borrowings	377,041
Repairs and maintenance	272,540
HST paid	195,343
Legal fees	156,076
Receiver's fees	145,000
Security and other deposits	79,079
Realty taxes	61,421
Payroll and deductions	39,506
Interest on receiver's borrowings	20,110
Insurance	14,450
Utilities	9,724
Advertising	6,774
Lender's fees	4,800
Office and general	375
Filing fee	140
	<u>2,194,933</u>

Excess of receipts over disbursements before undernoted	4,963,406
Payments to secured creditor	4,330,000
Excess of receipts over disbursements	<u><u>633,406</u></u>

The statement of receipts and disbursements is prepared on the cash basis and does not include the obligations of the Receiver, if any.

CONFIDENTIAL
APPENDIX “1”

TAB 3

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	MONDAY, THE 30 th DAY
)	
JUSTICE)	OF OCTOBER, 2017

BETWEEN:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

**HORSESHOE VALLEY LANDS LTD.
and HORSESHOE RIDGE HOMES INC.**

Respondents

**APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O.1990, C. C.43, AS AMENDED, AND SECTION 243 OF THE *BANKRUPTCY
AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3 AS AMENDED**

**ORDER
(Re: Sale Procedure Approval)**

THIS MOTION, made by Rosen Goldberg Inc., in its capacity as the Court-appointed receiver (the "**Receiver**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) and section 101 of the *Courts of Justice Act* of the assets, property and undertaking of Horseshoe Valley Lands Ltd. and Horseshoe Ridge Homes Inc. (collectively, the "**Debtors**"), *inter alia*, for an order (a) approving the sale

procedure, substantially in the form attached as Schedule "A" hereto (the "**Sale Procedure**"), (b) approving an asset purchase agreement (the "**Stalking Horse Agreement**") with Romspen Investment Corporation, in trust (the "**Stalking Horse Bidder**"), as purchaser, and (c) sealing and treating as confidential Confidential Appendix 1 to the Fifth report of the Receiver dated October 23, 2017 (the "**Fifth Report**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fifth Report and on hearing the submissions of counsel for the Receiver and the Stalking Horse Bidder, no one appearing for any other person on the Service List, although properly served as appears from the affidavit of [NAME] sworn October 24, 2017, filed:

DEFINITIONS

1. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings set out in the Sale Procedure.

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.

SALE PROCEDURE

3. **THIS COURT ORDERS** that the Sale Procedure substantially in the form attached as **Schedule "A"** hereto is hereby approved.

4. **THIS COURT ORDERS** that the Receiver is hereby authorized to carry out the Sale Procedure and to take such steps and execute such documentation as may be necessary or incidental to the Sale Procedure.

STALKING HORSE AGREEMENT

5. **THIS COURT ORDERS** that the Stalking Horse Agreement is hereby approved, provided that the approval of any sale of the Purchased Assets (as defined therein) by the Court will be subject to a subsequent motion to be held in accordance with the Sale Procedure.

APPROVAL OF RECEIVER'S REPORT

6. **THIS COURT ORDERS** that the Fifth Report and the activities of the Receiver described therein are hereby approved.

7. **THIS COURT ORDERS** that Confidential Appendix 1 to the Fifth Report be and is hereby sealed pending further Order of the Court.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

8. **THIS COURT ORDERS** that the Receiver's interim statement of receipts and disbursements appended to the Fourth Report is hereby approved

GENERAL

9. **THIS COURT ORDERS** that the Receiver may apply from time to time to this Court for advice and directions in the discharge of its powers and duties hereunder.

ROMSPEN INVESTMENT CORPORATION
Applicant

-and- **HORSESHOE VALLEY LANDS LTD.**
Respondents

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Sale Procedure Approval)

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Lawyers for Rosen Goldberg Inc. in its capacity
as Receiver of Horseshoe Valley Lands Ltd.
and Horseshoe Ridge Homes Inc.

Schedule "A"

Sale Procedure

Pursuant to a receivership application issued on July 22, 2016, by Romspen Investment Corporation bearing Court file No. CV-16-111468-00CL (the "**Receivership Proceeding**"), and an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") therein dated November 29, 2016 (as amended by Order of the Court dated December 22, 2016, and as may in the future be supplemented, amended or restated from time to time, and collectively the "**Appointment Order**"), Rosen Goldberg Inc. (the "**Receiver**") was appointed receiver, without security, of the assets, property and undertaking (collectively, the "**Property**") of each of Horseshoe Valley Lands Ltd ("**HVL**") and Horseshoe Ridge Homes Inc. ("**HRH**" and with HVL collectively, the "**Debtors**").

At the time of the making of the Appointment Order, HVL's real property consisted of vacant lands in the Township of Oro-Medonte, in the vicinity of the Horseshoe Valley Resort (the "**Lands**") which were being developed for residential use by HVL (the "**Project**"). The Lands were comprised of :

- (a) 29 single family lots, on the south side of Horseshoe Valley Road (the "**29 Single Family Lots**");
- (b) 19 townhouse lots on the south side of Horseshoe Valley Road, 9 of which are serviced and 11 of which are unserviced (the "**Townhouse Lots**");
- (c) 1 unserviced single family lot on the south side of Horseshoe Valley Road (the "**1 Unserved Single Family Lot**");
- (d) 1 unserviced commercial/institutional lot on the south side of Horseshoe Valley Road;
- (e) 67 acres approved for 789 residential units on the south side of Horseshoe Valley Road;
- (f) 109.9 acres zoned 50% rural agricultural and 50% environmental on the north side of Horseshoe Valley Road;
- (g) 3.91 acres zoned for agricultural uses on the south side of Horseshoe Valley Road; and
- (h) 52.75 acres, substantially all of which are zoned for residential development, on the north side of Horseshoe Valley Road;

HVL marketed the Lands for sale through HRH.

The Property, excluding the 29 Single Family Lots, the Townhouse Lots and the 1 Unserved Single Family Lot, comprises the "**Remaining Property**"

On October 30, 2017, the Court made an order (the "**Sale Procedure Order**")

among other things, approving (a) the Receiver's entry into a certain agreement of purchase and sale for the Remaining Property between the Receiver and Romspen Investment Corporation as purchaser (the "**Stalking Horse Bidder**") dated October 20, 2017 (the "**Stalking Horse Agreement**") so as to set a minimum floor price in respect of the Receiver's sales process; and (b) this Sale Procedure for the solicitation of offers or proposals (each a "**Bid**") for the acquisition of the Remaining Property, or some portion thereof.

Accordingly, the following Sale Procedure shall govern the proposed sale of all or substantially all of the Remaining Property pursuant to one or more Bids. This Sale Procedure shall govern the sales process relating to the solicitation by the Receiver of one or more Bids for the Remaining Property that, alone or in combination, are superior to that contemplated by the Stalking Horse Agreement.

All denominations are in Canadian Dollars.

1. Definitions

Capitalized terms used in this Sale Procedure shall have the definitions given to them in the preamble hereto and as follows:

"**Acknowledgement of Sale Procedure**" means an acknowledgement of the Sale Procedure in the form attached as **Schedule A** hereto;

"**Acquisition Entity**" means an entity specially formed for the purpose of effectuating the contemplated transaction;

"**Back-up Bid**" means the next highest and/or best Qualified Phase II Bid after the Successful Bid, as assessed by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale;

"**Back-up Bidder**" means the bidder submitting the Back-up Bid;

"**Bidder**" means a Qualified Phase I Bidder or a Qualified Phase II Bidder;

"**Accounts Receivable**" means (i) all accounts receivable owing to any or both of the Debtors.

"**Confidential Data Room**" means a private data room prepared and maintained by the Receiver containing confidential information in respect of or related to the Remaining Property;

"**Confidential Information Memorandum**" means a confidential information memorandum prepared by the Receiver providing certain confidential information in respect of or related to the Remaining Property;

"**Confidentiality Agreement**" means an executed confidentiality agreement in

form and substance acceptable to the Receiver and its counsel;

"Cushman & Wakefield" means Cushman & Wakefield Ltd. in its capacity as marketing and listing agent to the Receiver pursuant to an engagement agreement to be dated as of October 30, 2017;

"Encumbrances" means, collectively, all pledges, liens, security interests, encumbrances, claims, charges, options, and interests;

"Good Faith Deposit" means a cash deposit equal to ten (10) percent of the total purchase price contemplated under the applicable Modified APA;

"Interested Party" means a party participating in this Sale Procedure;

"Modified APA" means an executed mark-up of the Stalking Horse Agreement reflecting the applicable Qualified Phase I Bidder's proposed changes to the Stalking Horse Agreement;

"Notice Parties" means the Receiver and Dickinson Wright LLP;

"Participant Requirements" means, collectively, the requirements set out in Section 4(a) through 4e(iv) hereof;

"Phase I Bid" means an initial Bid submitted by an Interested Party pursuant to Section 4 hereof;

"Phase I Bid Deadline" means 10:00 a.m. (Eastern time) on December 8, 2017;

"Phase I Bidder" means a bidder submitting a Phase I Bid;

"Phase I Participant Requirements" has the meaning given to it in Section 4 hereof;

"Phase II Bid" means a Bid submitted by a Qualified Phase I Bidder pursuant to Section 9 hereof;

"Phase II Bid Deadline" means 10:00 a.m. (Eastern time) on December 15, 2017;

"Principals" means, collectively, the equity holder(s) of an Acquisition Entity and any guarantor of any Bid made by such Acquisition Entity;

"Qualified Phase I Bidder" means a Phase I Bidder that delivers the documents described in paragraphs (a) through (e) in Section 4, and that the Receiver determines is reasonably likely to submit a binding *bona fide* offer that would have an aggregate purchase price for the Remaining Property that exceeds the Stalking Horse Purchase Price and would be able to consummate a transaction if selected as a Successful Bidder;

"Qualified Phase II Bid" means a Phase II Bid that satisfies the conditions set out in Section 8 hereof;

"Qualified Phase II Bidder" means a bidder submitting a Qualified Phase II Bid;

"Sale Hearing" means a hearing to approve the sale of Remaining Property to the Successful Bidder;

"Romspen" means Romspen Investment Corporation in its capacity as the senior secured lender of the Debtors;

"Stalking Horse Purchase Price" means \$20,400,000.00;

"Successful Bid" means the highest and best Qualified Phase II Bid as determined by the Receiver, taking into account financial and contractual terms and the factors relevant to the Sale Procedure, including those factors affecting the speed and certainty of consummating the proposed sale; and

"Successful Bidder" means the Bidder submitting the Successful Bid.

2. Assets for Sale

The Receiver is soliciting superior offers for all of and not less than all of the Remaining Property (as defined in the Stalking Horse Agreement).

For the purposes of this Sale Procedure, Bids may be submitted only for the entire Remaining Property.

3. Sale Procedure Structure and Bidding Deadlines

The Sale Procedure shall consist of two phases. In the first phase, Interested Parties that meet the preliminary participant requirements set out herein, including having executed a Confidentiality Agreement, shall be provided the Confidential Information Memorandum in order to prepare and submit their Phase I Bid by the Phase I Bid Deadline and be given access to additional confidential information in the Confidential Data Room. Phase I Bidders that are determined by the Receiver to be Qualified Phase I Bidders shall be invited to participate in the second phase to submit a Phase II Bid.

The Receiver will be engaging Cushman & Wakefield as marketing and listing agent to assist the Receiver with the implementation of the Sale Procedure. Interested Parties wishing to obtain information about the Sale Procedure, a copy of the Confidentiality Agreement and information in connection with their due diligence, should contact Cushman & Wakefield, Attn. Peter Deguerre (peter.deguerre@cushwake.com), and the Receiver, Rosen Goldberg Inc., Attn. Brahm Rosen (brosen@rosengoldberg.com).

All Phase I Bids must be submitted to the Notice Parties by email in accordance with the terms of this Sale Procedure so that they are actually received by each of the Notice Parties no later than the Phase I Bid Deadline. All Phase II Bids must be

submitted to the Notice Parties by email in accordance with the terms of this Sale Procedure so that they are actually received by each of the Notice Parties no later than the Phase II Bid Deadline. In addition, written copies of the Bids shall be delivered by the applicable deadline (or within one business day thereafter) to the Notice Parties at the following addresses: (a) the Receiver, Rosen Goldberg Inc., 5255 Yonge St, North York, ON M2N 5P8, Attn. Brahm Rosen, and (b) counsel to the Receiver, Dickinson Wright LLP, 199 Bay Street, Suite 2200, Toronto, ON M5L 1G4, Attn. David Preger. A Bid received after the Phase I Bid Deadline shall not constitute a Phase I Bid and a Phase II Bid received after the Phase II Bid Deadline shall be disqualified. A Bid shall be delivered to all Notice Parties at the same time.

4. Participant Requirements

Phase I Participant Requirements.

To participate in Phase I of the Sale Procedure and to otherwise be considered for any purpose hereunder, each Interested Party must provide the Receiver with each of the following prior to being provided with the Confidential Information Memorandum and access to the Confidential Data Room: (i) an executed Confidentiality Agreement; and (ii) an executed Acknowledgement of Sale Procedure (collectively, the "Phase I Participant Requirements").

Phase II Participant Requirements.

Only Qualified Phase I Bidders shall be allowed to participate in Phase II of the Sale Procedure. In order for the Receiver to determine whether an Interested Party is a Qualified Phase I Bidder, the Interested Party must provide, in form and substance satisfactory to the Receiver, each of the following on or before the Phase I Bid Deadline:

- (a) Identification of Phase I Bidder. Identification of the Phase I Bidder and any Principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) Non-Binding Expression of Interest. An executed non-binding indication of interest satisfactory to the Receiver that must reasonably identify the contemplated transaction, the proposed purchase price, and conditions precedent to closing;
- (c) Corporate Authority. Written evidence of the approval of the Phase I Bid by the Phase I Bidder's chief executive officer or other appropriate senior executive; provided, however, that, if the Phase I Bidder is an Acquisition Entity, then the Phase I Bidder must furnish written evidence reasonably acceptable to the Receiver of the approval of the Phase I Bid by the Acquisition Entity's Principals; and
- (d) Proof of Financial Ability to Perform. Written evidence upon which the Receiver may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated

transaction. Such information should include, among other things, the following:

- (i) the Phase I Bidder's or, in the case of an Acquisition Entity, the Principals', current financial statements (audited if they exist);
- (ii) contact names and numbers for verification of financing sources;
- (iii) evidence of the Phase I Bidder's or Principals' internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and
- (iv) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Receiver demonstrating that such Phase I Bidder has the ability to close the contemplated transaction;

provided, however, that the Receiver shall determine, in its reasonable discretion, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Phase I Bidder's financial qualifications.

5. Designation as Qualified Bidder

Following the Phase I Bid Deadline, the Receiver shall determine which Phase I Bidders are Qualified Phase I Bidders. The Receiver shall notify each Phase I Bidder of its determination as to whether the Phase I Bidder is a Qualified Phase I Bidder as soon as practicable after the Phase I Bid Deadline.

Following the Phase II Bid Deadline, the Receiver shall determine which Phase II Bidders are Qualified Phase II Bidders. The Receiver shall notify each Phase II Bidder of its determination as to whether the Phase II Bidder is a Qualified Phase II Bidder as soon as practicable after the Phase II Bid Deadline.

For greater certainty, the Stalking Horse Bidder is and is deemed to be a Qualified Phase I Bidder and a Qualified Phase II Bidder for all purposes of this Sale Procedure.

6. Access to Due Diligence Materials

Only Interested Parties that satisfy the Phase I Participant Requirements will be eligible to receive the Confidential Information Memorandum and access the Confidential Data Room. If the Receiver determines that a Phase I Bidder does not constitute a Qualified Phase I Bidder, then such Phase I Bidder shall not be eligible to receive any additional due-diligence access, additional nonpublic information or any further access to the Confidential Data Room.

The Receiver will be responsible for the coordination of all reasonable requests for additional information and due-diligence access from Qualified Phase I Bidders. Neither the Receiver nor Cushman & Wakefield shall be obligated to furnish any due diligence information after the Phase II Bid Deadline. Neither the Receiver nor Cushman

& Wakefield shall be responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Remaining Property.

7. Information From Interested Parties

Each Interested Party shall comply with all reasonable requests for additional information by the Receiver regarding such Interested Party and its contemplated transaction. Failure by an Interested Party to comply with requests for additional information will be a basis for the Receiver to determine that the Interested Party is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as applicable.

8. Phase II Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid. In order to be considered a Qualified Phase II Bid, as determined by the Receiver, a Phase II Bid must satisfy each of the following conditions:

- (a) Written Submission of Modified APA and Commitment to Close. The Phase II Bid must be submitted by the Phase II Bid Deadline in the form of a Modified APA (together with a blackline of the Modified APA against the Stalking Horse Agreement), and a written and binding commitment to close on the terms and conditions set forth therein.
- (b) Irrevocable. A Phase II Bid must be received by the Phase Bid II Deadline, in accordance with Section 3 above, and must be irrevocable until date on which the Receiver obtains court approval of the Successful Bid, subject to the provisions hereof regarding the Back-up Bid being deemed to be the Successful Bid;
- (c) Conditions. A Phase II Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other terms and conditions associated with a Phase II Bid may not, in aggregate, be more burdensome than those set forth in the Stalking Horse Agreement;
- (d) Financing Sources. A Phase II Bid must be accompanied by written evidence of a commitment for financing or other evidence of the ability to consummate the transaction satisfactory to the Receiver and appropriate contact information for such financing sources must be provided;
- (e) No Fees payable to Qualified Phase II Bidder. A Phase II Bid may not request or entitle the Qualified Phase II Bidder to any break fee, expense reimbursement or similar type of payment;
- (f) Good-Faith Deposit. Each Phase II Bid must be accompanied by a Good Faith Deposit that shall be paid to the Receiver by wire transfer or banker's draft, to be held by the Receiver in trust in accordance with this Sale Procedure; and

- (g) Stalking Horse Purchase Price. The purchase price in a Phase II Bid must be in accordance with Section 11 below.

The Receiver shall be entitled to seek additional information and clarifications from Phase II Bidders in respect of their Phase II Bids at any time.

9. Furthers Bid by the Stalking Horse Bidder or Romspen

The Stalking Horse Bidder, Romspen or a person related thereto shall be entitled to make .

10. Determination of Successful Bid

If no Qualified Phase II Bid other than the Stalking Horse Bid is received by the Phase II Bid Deadline, then the Sale Procedure shall be terminated and the Stalking Horse Bidder shall be declared the Successful Bidder. If the Stalking Horse Bidder is declared the Successful Bidder, the Receiver shall as soon as reasonably practicable seek approval of, and authority to consummate, the Stalking Horse Agreement and the transactions provided for therein at the Sale Hearing and the Receiver shall post notice of such facts on its website established in connection with the Receivership Proceeding.

If one or more Qualified Phase II Bid other than the Stalking Horse Bid is received by the Phase II Bid Deadline, and the Receiver determines such Qualified Phase II Bid(s) to be greater than the Stalking Horse Bid, the Receiver shall have the option to:

- (a) Conduct an auction amongst the Qualified Phase II Bidders, on terms to be determined by the Receiver, to determine the Successful Bid and the Back-up Bid;
- (b) Negotiate with the Qualified Phase II Bidders and determine the Successful Bid and the Back-up Bid; or
- (c) Determine which of the Qualified Phase II Bids shall be the Successful Bid and which of the Qualified Phase II Bids shall be the Back-up Bid.

11. Increments of Phase II Bids

The minimum purchase price of any Phase II Bid must be the sum of the Purchase Price (as defined in the Stalking Horse Agreement) plus the Break Fee.

12. Acceptance of Successful Bid

The Receiver shall complete the sale transaction with the Successful Bidder following approval of the Successful Bid by the Court. The Receiver will be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by the Court. The Receiver will be deemed to have accepted a Back-up Bid only when it has been approved by the Court and has been deemed to be a Successful Bid.

13. **Break Fee**

In consideration for the Purchaser's expenditure of time and money in acting as the initial bidder in the stalking horse bid and the preparation and negotiation of the Stalking Horse Agreement and subject to the terms and condition of that Agreement and of the Sale Procedure Order, upon termination of the Stalking Horse Agreement by the Receiver or the closing of a sale and a transfer, or a series of sale of transfers, of substantially all of the Remaining Property to one or more parties other than Romspen (an "**Alternative Transaction**"), the Receiver shall pay to Romspen from the proceeds of an Alternative Transaction a break fee which includes re-imbusement of Romspen's expenses in connection with this transaction (the "**Break Fee**") equal to 1.5% of the final purchase price in the Stalking Horse Bid, after adjustments. Payment of the Break Fee shall be made by the Receiver upon Court approval of said payment after consummation of the Alternative Transaction. Upon payment of the Break Fee to Romspen, Romspen and the Receiver shall have no further obligations under the Stalking Horse Agreement.

14. **"As Is, Where Is"**

The sale of any of the Remaining Property pursuant to this Sale Procedure shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Receiver, Cushman & Wakefield or their respective officers, directors, employees or agents except to the extent set forth in the Successful Bid. The Stalking Horse Bidder and each Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Remaining Property prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Remaining Property in making its Bid, and 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 Remaining Property, or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Procedure or (a) as to the Stalking Horse Bidder, the terms of the sale of the Remaining Property shall be set forth in the Stalking Horse Agreement, or (b) as to another Successful Bidder, the terms of the sale of the Remaining Property shall be set forth in the applicable purchase agreement

15. **Free Of Any And All Encumbrances**

Except as otherwise provided in each Successful Bid, the Remaining Property shall be sold free and clear of all Encumbrances, in accordance with a vesting order of the Court, with all Encumbrances on or against the Remaining Property to attach to the net proceeds of the sale of the Remaining Property after completion of each such sale under a Successful Bid.

16. **Sale Hearing**

A Sale Hearing shall be conducted by the Court as soon as practicable after the determination by the Receiver of the Successful Bidder. If the Successful Bid is approved by the Court and the Successful Bidder fails to consummate the transaction in accordance with the terms and conditions of the Successful Bid, the Receiver shall, provided it is so

authorized by the Court, be entitled, but not required, to deem the Back-up Bid the Successful Bid and the Receiver shall be authorized, but not required, to consummate the transaction with the Back-up Bidder and upon so doing the Back-up Bidder shall be deemed to be the Successful Bidder, subject to approval by the Court, which approval may be sought by the Receiver on a conditional basis at the Sale Hearing, at the Receiver's discretion.

17. Return of Good Faith Deposit

Good Faith Deposits of all Qualified Phase II Bidders shall be held in an account of the Receiver. Good Faith Deposits of all Qualified Phase II Bidders, other than the Successful Bidder and the Back-up Bidder, shall be returned to such Qualified Phase II Bidders within three (3) business days after the selection of the Successful Bidder and Back-up Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Good Faith Deposit of the Back-up Bidder shall be returned to the Back-up Bidder within three (3) business days after the closing of the transaction(s) contemplated by the Successful Bid. If a Successful Bidder (including any Back-up Bidder deemed to be a Successful Bidder hereunder) fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-up Bidder, the Good Faith Deposit of the Back-up Bidder shall be applied to the purchase price of the transaction(s) contemplated by the purchase agreement of the Back-up Bidder at closing.

18. Modifications and Reservations

This Sale Procedure may be modified or amended by the Receiver provided that if such modification or amendment materially deviates from this Sale Procedure, such modification or amendment may only be made by order of the Court.

ROMSPEN INVESTMENT CORPORATION
Applicant

-and- **HORSESHOE VALLEY LANDS LTD. et al.**
Respondents

Court File No. CV-16-11468-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD OF THE RECEIVER,
ROSEN GOLDBERG INC.

DICKINSON WRIGHT LLP
Barristers & Solicitors
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