

APPENDIX “A”

Glossary of Defined Terms for Receiver's Twenty-Third Report

<u>Term</u>	<u>Definition</u>
A&M	Alvarez & Marsal Canada ULC
Ad Hoc Committee	The Ad Hoc Committee of Unit Owners, consisting of certain Unit Owners who represent the 89 individual Unit Owners
Ancillary July 21 Order	The Order Ancillary to the Approval and Vesting Order dated July 21, 2011
Appointment Order	Amended and Restated Appointment Order issued June 2, 2009, as amended by Orders dated December 21, 2009, April 15, 2010 and November 12, 2010
April 13 Order	The Order of the Court dated April 13, 2011
Assets	All of the property, assets and undertakings of The Rosseau Resort Developments Inc.
August 18 Order	The Order of the Court dated August 18, 2009, as amended August 20, 2009
August 20 Order	The Order of the Court dated August 20, 2009
August 26 Order	The Order of the Court dated August 26, 2011
Blakes	Blake, Cassels & Graydon LLP
Canadian Niagara	Canadian Niagara Hotels Inc.
CIT	CIT Financial Ltd.
Closing	The date for closing the transaction with the Purchaser, established by the Purchase Agreement, which is the 31 st day following the granting of the Sale Approval Order. The Closing occurred on August 23, 2011.
Common Expense Subsidies	A form of incentive provided by RRDI prior to the receivership, promising to pay condominium fees and expenses in respect of certain Unit Owners' Units
Condominium Corporation	The Muskoka Standard Condominium Corporation No. 62
Construction Lien Claims Process	The construction lien claims process provided for by the Construction Lien Claims Process Order
Construction Lien Claims Process Order	Order of the Court dated July 24, 2009, setting out the process for determining construction lien claims
Contact List	The list of potential Unit purchasers collected by the Receiver during the course of the One-Day Sale and receivership
December 21 Order	The Order of the Court dated December 21, 2009
December 7 Order	The Order of the Court dated December 7, 2010

<u>Term</u>	<u>Definition</u>
Distribution Summary	Summary of the remaining proceeds available for distribution to WestLB
EAA	Erste Abwicklungsanstalt, assignee and successor of certain interests of WestLB
Fortress	Fortress Credit Corp.
Fresh Start Approach	The agreement reached between Unit Owners and the Receiver, which was approved by the Court and ratified in the vote of Unit Owners, whereby the parties agreed to “restart the clock” with respect to the obligation of Unit Owners to remit condominium fees to the Condominium Corporation, and Unit Owners who had previously paid condominium fees will be granted a credit against future condominium fees to be paid
Fresh Start Date	The earlier of (i) the end of the calendar month in which the closing of a sale by RRDI, by its Receiver of the assets of RRDI to a purchaser occurs, whether such sale transaction takes place pursuant to the Sales Process or otherwise; (ii) the end of the month in which the Sales Process is terminated by Order of the Court; and (iii) December 31, 2011
Hotel	The Rosseau, a J.W. Marriott Resort & Spa located on Lake Rosseau in Muskoka, Ontario
Hotel Management Agreement	Hotel management agreement between, RRDI, by its Receiver and Manager, and Marriott executed on January 22, 2010
Incentives	Incentives and benefits granted to certain Unit Owners who had purchased their Units from RRDI prior to the receivership to entice them to purchase their Units
Independent Directors	The two independent directors of the Muskoka Standard Condominium Corporation No. 62 who are individual Unit Owners who have been appointed pursuant to section 42(11) of the Condominium Act
Indulgence Cards	An Incentive given to certain Unit Owners for use by the Unit Owner to pay for amenities and services at the Hotel
Interim Receiver	Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.)
KFE	Ken Fowler Enterprises Limited
Marriott	Marriott Hotels of Canada Ltd.
Marriott Gold Membership Fees	Fees paid to Marriott on behalf of certain Unit Owners in respect of membership in Marriott’s Gold rewards program
Master’s Report	The report of Master Short dated May 16, 2011 in respect of the Reference

<u>Term</u>	<u>Definition</u>
May 6 Order	The Order of Mr. Justice Campbell dated May 6, 2011
Modified Sale/Leaseback Transactions	Certain modified sale/leaseback transactions with RRDI, pursuant to which RRDI leased Units from such Unit Owners and agreed to pre-pay a number of expenses on behalf of the Unit Owners
Modified Sale/Leaseback Unit Owners	The Unit Owners who were parties to the Modified Sale/Leaseback Transactions
MT	Miller Thomson LLP
Mutual Undertaking	The undertaking among RRDI and certain members of the Resort Association to use reasonable commercial efforts to negotiate and settle binding definitive documentation to give effect to the principal terms of an agreement with respect to the Resort Association
Neighbouring Properties	The Rock, Cleavelands House Limited, Lakeside Lodge, and Wallace Marine, all of which neighbour the Hotel and are corporately related to RRDI and KFE
One-Day Sale	The sales event conducted by the Receiver which took place at the Hotel on August 22, 2009 and which was continued to August 23, 2009 for the sale of Units that were not yet sold
Prior HMA	The former Hotel Management Agreement as among Marriott, RRDI and RRMSI which was repudiated
Prior RPMA(s)	The former rental pool management agreement between Unit Owners and RRMSI which was repudiated by the Receiver and the RRMSI Receiver
Professional Fees Holdback	A holdback for payment of professional fees and costs, in the amount of \$350,000
Purchase Agreement	An agreement of purchase and sale with Canadian Niagara Hotels Inc. dated as of June 30, 2011 and executed by the Receiver on July 4, 2011 as assigned to 2253100 Ontario Inc.
Purchased Assets	Substantially all of the Assets of RRDI purchased by 2253100 Ontario Inc. and defined in the Purchase Agreement
Purchaser	2253100 Ontario Inc., an affiliate of Canadian Niagara Hotels Inc.
Receiver	Collectively, the Interim Receiver, the Receiver and Manager and the Trustee
Receiver and Manager	Alvarez & Marsal Canada ULC in its capacity as receiver and manager
Receiver's Borrowings	Collectively, those receiver's borrowings authorized by the Appointment Order as amended from time to time

<u>Term</u>	<u>Definition</u>
Receiver's Borrowings Charge	The Receiver's Borrowings Charge established by the Appointment Order securing the Receiver's Borrowings
Receiver's Charge	The first charge against the Assets granted in the Appointment Order for any expenditure or liability properly made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel
Reference	The Reference conducted by Master Short as directed by the Court by Orders dated October 14, 2009 and April 21, 2010
Remaining Disbursements	The final fees and disbursements of the Receiver and its legal counsel and any remaining expenses
Representative Counsel	Miller Thomson LLP as appointed pursuant to the August 20 Order on behalf of certain Unit Owners
Reserve	The reserve in the amount of \$241,686 for any remaining expenses other than professional fees and costs
Resort Association	Red Leaves Resort Association
Rock Solid	1569243 Ontario Inc. carrying on business as Rock Solid Granite Tops
Rock Solid Action	The proceeding commenced by Rock Solid at Bracebridge as Court File No. CV-09-48-00
Ross Windows	Parry Sound Glass Limited carrying on business as Ross Windows and Doors
RPMA(s)	Rental pool management agreement(s) between RRDI, by its Receiver, and Unit Owners
RRDI	The Rosseau Resort Developments Inc.
RRDI Director Appointees	The appointees of RRDI to the Board of Directors of the Condominium Corporation
RRMSI	The Rosseau Resort Management Services Inc.
RRMSI Receiver	Alvarez & Marsal Canada ULC as appointed pursuant to the September 1 Order
RZB	Raiffeisen Bank International AG, as legal successor to Raiffeisen Zentralbank Osterreich AG
Sale Approval Order	The Approval and Vesting Order of the Court dated July 21, 2011, approving the sale to Canadian Niagara and vesting the Purchased Assets in Canadian Niagara
Sales Process	The process the Receiver has conducted in respect of selling the remaining Assets of RRDI on an <i>en bloc</i> basis as authorized by the May 6 Order

<u>Term</u>	<u>Definition</u>
September 1 Order	The Order of the Court dated September 1, 2009
Syndicate	The lender syndicate being WestLB AG, New York Branch and CIT Financial Ltd.
The Rock	1515511 Ontario Inc. o/a The Rock Golf Course
Township	The Township of Muskoka Lakes
Travelers	Travelers Guarantee Company of Canada
Trustee	Alvarez & Marsal Canada ULC in its capacity as trustee appointed pursuant to Section 68 of the <i>Construction Lien Act</i> (Ontario)
Unit Owner Matters	Those matters identified at paragraph 12 of the August 18 Order and paragraph 4 of the August 20 Order for which Miller Thomson LLP was retained
Unit Owner Settlement Agreements	Agreements reached with certain Unit Holders to settle the Incentives and other matters
Unit Owners	The individual owners of 89 Units at the Hotel
Units	The 221 condominium units of the Hotel
Wallace Marine	Wallace Marine Limited
WestLB	WestLB AG, New York Branch (formerly WestLB AG, Toronto Branch)

APPENDIX “B”

**The Rosseau Resort Developments Inc. ("RRDI")
by its Receiver and Manager and Trustee of its Assets,
Alvarez & Marsal Canada ULC
Distribution Summary**

Cash on Hand, September 14, 2011 **\$ 2,506,772**

Forecast Receipts:

Reimbursements for indulgence cards	5,691	
Reimbursements for Marriott Gold Memberships	4,704	
Rock Solid Granite Tops Lien Claim Settlement [1]	60,500	
Ross Windows Claim [2]	-	
HST Receivables [2]	-	
Property tax refunds, subject to appeal [2]	-	
Total Forecast Receipts	70,895	

Less Forecast Disbursements:

Professional Fees and Costs, August Invoices	279,400	
September Interest on Tranche 2 and Tranche 3 Receiver's Borrowings	107,849	
Miller Thomson LLP, fees	47,000	
Bank Charges	500	
Total Forecast Disbursements	434,749	

Anticipated Cash on Hand, after forecast receipts and disbursements **2,142,919**

Less Professional Fees and Costs Holdback:

Estimated Professional Fees and Costs, September and post discharge	340,000	
Accountant's Fees	10,000	
Total Professional Fees and Costs Holdback	350,000	

Less Reserve [3]: **232,919**

Proposed Distribution to WestLB, subject to any adjustment to the Reserve **1,560,000**

Notes:

[1] Prior to the receivership, RRDI paid approximately \$88,000 into Court on account of a construction lien claim filed by Rock Solid Granite Tops ("Rock Solid") against RRDI. There are two other lien claimants who have asserted a claim to those funds, WestLB (as assignee of approximately \$2.8 million of lien claims) and Parry Sound Glass, operating as Ross Windows and Doors. The claim of Rock Solid has been settled with WestLB by way of a payment to Rock Solid of \$20,000, with the balance to be released to WestLB. Pending further discussions with Ross Windows with respect to its claim, against which the Receiver has asserted set-off, the Receiver has established a contingent reserve of \$7,500 out of the amount to be paid to WestLB.

[2] At this time, the Receiver is not in a position to estimate or determine the value of these potential recoveries. Should the Receiver recover any proceeds related to these or other matters on behalf of the estate, they will be promptly distributed to WestLB.

[3] The Receiver has set aside a reserve of approximately \$233,000 to be held until all remaining matters in the Receivership have been finalized, as referenced in the Report. This reserve includes approximately \$38,000 for a claim by Ross Windows for work performed by Ross Windows during the receivership, against which the Receiver has asserted set-off of its deficiency claim, to be held pending further discussions with Ross Windows or other determination of the claims. If there is not a settlement of the deficiency claim prior to the discharge hearing, the Receiver will be seeking either (i) a larger reserve; or (ii) will put in place arrangements with WestLB satisfactory to the Receiver for the funding of the costs of the ongoing litigation with Ross Windows.

APPENDIX “C”

Court File No. CV-09-8201-00CL

**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, SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, C. C. 30, AS AMENDED**

MASTER SHORT

) MONDAY, THE 16TH DAY
)
) OF MAY, 2011

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

REPORT

IN ACCORDANCE WITH the Order of the Honourable Madam Justice Pepall dated October 14, 2009 (the "October 14 Order"), directing a reference of the following issues:

- (a) are each of the Perfected Lien Claimants (as that term is defined in the October 14 Order) a "contractor" as defined in the *Construction Lien Act* (Ontario) ("CLA") for the purposes of their respective Claims (as that term is defined in the October 14 Order)?
- (b) if the answer to (a) is negative, is Rock Ridge Contractors Inc. a "contractor" as defined in the CLA with respect to the Claims?

the scope of which reference was expanded by the Order of the Honourable Madam Justice Pepall dated April 21, 2010, to include a determination of whether certain Certificates of Substantial Performance are valid for the purpose of determining the expiry of corresponding lien rights pursuant to the provisions of the CLA (the "Reference");

AND IN THE PRESENCE OF counsel for Alvarez & Marsal Canada ULC, in its capacity as court-appointed receiver and manager of the assets of The Rosseau Resort Developments Inc. ("RRDI") pursuant to section 101 of the *Courts of Justice Act* (Ontario) and trustee and receiver and manager of the assets of RRDI pursuant to the CLA, and Alvarez & Marsal Canada Inc., in its capacity as interim receiver of the assets of RRDI pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (collectively, the "Receiver"); WestLB AG, New York Branch as successor to WestLB AG, Toronto Branch ("WestLB"); 1569243 Ontario Inc. c.o.b. Rock Solid Granite Tops ("Rock Solid"); and Parry Sound Glass c.o.b. Ross Windows ("Ross Windows");

ON BEING ADVISED by counsel for WestLB that all of the Perfected Lien Claimants (as that term is defined in the October 14 Order), with the exceptions of Rock Solid and Ross Windows, have settled their respective Claims on terms which include an assignment of their respective liens and lien rights to WestLB;

AND ON READING the Order of the Honourable Mr. Justice Campbell dated December 7, 2010 (the "December 7 Order"), making a final determination of the amount and priority of the Determined Lien Claims (as that term is defined in the December 7 Order);

AND ON BEING ADVISED by counsel for the Receiver, WestLB and Ross Windows that those parties have settled all issues within the scope of the Reference and have agreed that the construction lien of Ross Windows, which is the subject of this Reference, has priority over the WestLB charge, registered against title to the property owned by RRDI on March 6, 2007 as instrument MT29969, to the extent of the sum of \$266,080.12, subject to a set-off in an amount to be determined in separate proceedings which are pending before the Ontario Superior Court of Justice,

AND ON BEING ADVISED by counsel for the Receiver, WestLB and Rock Solid that those parties have agreed that Rock Solid was at all material times a contractor, as that term is defined in the CLA, and that the construction lien registered by Rock Solid in connection with these proceedings was preserved and perfected within the prescribed time,

AND ON BEING ADVISED by counsel for the Receiver that notice of earlier proceedings in this Reference was given to all parties with an interest in the Reference,

1. **I FIND AND DECLARE THAT** there are no outstanding issues of law or fact within the scope of the Reference which require adjudication or which remain to be determined and, as such, **I ORDER THAT** all dates fixed by me for events in the Reference be cancelled or vacated, as appropriate, and all timetables which I set in the Reference are of no further effect.

2. **I FIND AND DECLARE THAT** all issues of costs of the Reference proceedings are reserved to the Commercial List Court having carriage of the within proceedings.

3. **I ORDER THAT** the requirement to provide notice to the Reference parties, except to the Receiver, WestLB, Rock Solid and Ross Windows, of any date fixed to settle this report is hereby dispensed with in accordance with Rule 55.02(19) of the *Rules of Civil Procedure*. I further order that the Receiver shall provide a copy of the signed and settled Report to each of the parties with an interest in the Reference.



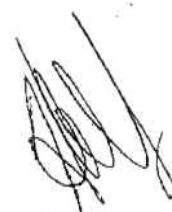
MASTER D. E. SHORT

Signed:
AUG 16 2011

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

MAY 16 2011

PER / PAR:



Court File No: CV-09-8201-00CL

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

WESTLB AG, TORONTO BRANCH
Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.
Respondent

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

REPORT

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Independent Counsel for Alvarez & Marsal Canada
ULC and Alvarez & Marsal Canada Inc., in their
respective capacities as Court-Appointed Trustee
and Receiver and Manager, and Interim Receiver

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RCP-E 4C (July 1, 2007)

APPENDIX “D”

Court File No. CV-09-8201-00CL

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

THE HONOURABLE MADAM)	MONDAY, THE 21 st DAY
)	
JUSTICE PEPALL)	OF DECEMBER, 2009

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

BETWEEN:



WESTLB AG, TORONTO BRANCH

Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

ORDER

THIS MOTION, made by Alvarez & Marsal Canada ULC ("**A&M**"), in its capacity as Court-appointed receiver and manager pursuant to section 101 of the *Courts of Justice Act* (Ontario) and trustee and receiver and manager under the *Construction Lien Act* (Ontario) ("**CLA**"), and Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.), in its capacity as interim receiver pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (the "**BIA**") (jointly and collectively, the "**Receiver**"), of the undertaking, property and assets (the "**Assets**") of The Rosseau Resort Developments Inc. ("**RRDI**") for an Order:

- (a) validating service of the Notice of Motion and the Motion Record herein, and dispensing with further service thereof;
- (b) authorizing and approving an increase to the Receiver's Borrowings as contemplated by paragraph 20 of the Amended and Restated Appointment Order dated June 2, 2009 (the "**Appointment Order**") and section 78(7) of the CLA by way of a separate facility in the amount of \$7,500,000 to be provided by WestLB AG on the terms set out in a term sheet to be delivered (the "**Second Tranche Term Sheet**"), to be secured by the Receiver's Borrowings Charge (as defined in the Appointment Order);
- (c) providing that in accordance with paragraph 24 of the Appointment Order, all Receiver's Certificates issued by the Receiver in respect of the Second Tranche Term Sheet shall rank subordinate to all Receiver's Certificates issued by the Receiver in connection with the existing Receiver's Borrowings;
- (d) authorizing the Receiver to apply Proceeds as defined in the Eighth Report of the Receiver dated December 14, 2009, (the "**Eighth Report**"), to permanently reduce the amounts outstanding under the existing Receiver's Borrowings and the Term Sheet (as defined at paragraph 20 of the Appointment Order);
- (e) approving an Institutional Sales Process Protocol (the "**Protocol**") substantially in the form attached hereto as Schedule "A" that outlines the steps to be taken under the Institutional Sales Process authorized by the Court by Order dated July 8, 2009;
- (f) approving a proposed settlement between the Receiver and Unit Owners with respect to the allocation of entitlements of RRDI and the Unit Owners to certain funds held by McCarthy Tetrault LLP ("**McCarthys**") as proposed by the Receiver at section 10 of the Eighth Report (the "**Trust Allocation**"), and authorizing and directing McCarthys to pay the sum of \$1,640,355.85 to the Receiver to be held by the Receiver for distribution as provided for herein;
- (g) authorizing the Receiver to repudiate all trademark licence agreements or other arrangements for the use of the Red Leaves trademark, oral or otherwise, as may

be in effect as between RRDI and any other persons or entities, and authorizing the Receiver to enter into a trademark licence agreement terminable on 180 days' notice, with 1515511 Ontario Inc. (c.o.b. as The Rock), and such other affiliates of RRDI on such terms as the Receiver may determine appropriate;

- (h) authorizing and approving additional funding to pay the outstanding accounts of Miller Thomson LLP ("**Miller Thomson**") in its capacity as counsel for the Ad Hoc Committee of Unit Owners and representative counsel appointed by Order dated August 20, 2009 ("**Representative Counsel**") for Unit Owners and Existing Unit Purchasers (as defined therein) who are parties to an Existing Rental Pool Management Agreement (as defined therein);
- (i) amending the Appointment Order by amending Schedule "A" to the Appointment Order to add two additional parcels of real property that are owned by RRDI to the legal description of lands described therein;
- (j) providing that all references to McIntosh & Morawetz Inc. in all prior Court Orders, Reports, and other material filed with the Court shall be taken to be a reference to Alvarez & Marsal Canada Inc.;
- (k) approving the Eighth Report and the conduct and activities of the Receiver described therein;
- (l) sealing the Confidential Appendices to the Eighth Report pending further Order of this Court; and
- (m) such further and other relief as counsel may request and this Honourable Court deems just.

ON READING the Eighth Report, the affidavits of service filed, and on hearing the submissions of counsel for WestLB AG, Toronto Branch and the Receiver, independent counsel for the Receiver, counsel for CIT Financial Ltd., counsel for the Ad Hoc Committee of Unit Owners and Representative Counsel, counsel for Marriott Hotels of Canada, Ltd. ("**Marriott Hotels**"), no one appearing for The Rosseau Resort Management Services Inc., RRDI, Ken

Fowler Enterprises Limited, and Fortress Credit Corp., and no one appearing for any other person on the service list,

Service

1. THIS COURT ORDERS that the service of the Notice of Motion and the Motion Record in accordance with the Affidavits of Service of Wendy Robinson sworn December 17, 2009, and of Charlene Griffin sworn December 17, 2009 and December 18, 2009, filed, including the method and timing of notice, including to certain Unit Owners (as defined in the Eighth Report) by letter dated December 11, 2009 delivered by way of email and mail and/or courier, is hereby validated, and that service on any interested person other than those served is hereby dispensed with.

Second Tranche Receiver's Borrowings

2. THIS COURT ORDERS that the Appointment Order is amended by deleting paragraph 20 and replacing it with the following:

"20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby authorized and empowered to borrow from the Lenders, such monies from time to time as it may consider necessary or desirable, in the amount and on the terms as set out in the Term Sheet provided to the Receiver by WestLB dated May 15, 2009, substantially in the form attached as Exhibit "S" to the Dyck Affidavit, and is authorized and empowered to borrow from WestLB AG, Toronto Branch such monies from time to time as it may consider necessary or desirable, in the principal amount of \$7,500,000, on the terms as set out in a term sheet to be delivered, which will provide for a commitment fee of 4% and the same Prime rate of interest as in the Term Sheet plus 7% (the "Second Tranche Term Sheet"), provided that the aggregate principal amount drawn pursuant to the Term Sheet and Second Tranche Term Sheet does not exceed \$22,500,000.00 (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

(collectively, the "Receiver's Borrowings"). 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, construction liens, charges and encumbrances, statutory or otherwise in favour of any Person, but subordinate in priority to the Receiver's Charge. The Receiver is hereby authorized to execute and deliver such other commitment letters, fee letters, credit agreements, mortgages, charges, hypothecs and security documents as the Lenders and/or West LB AG, Toronto Branch may require from time to time to carry into effect the terms of the Term Sheet and/ or the Second Tranche Term Sheet."

3. THIS COURT ORDERS that paragraphs 21 and 25 of the Appointment Order are amended such that "and WestLB AG, Toronto Branch" is added after each reference to "Lenders" therein and ", the Second Tranche Term Sheet" is added after "Term Sheet" in paragraph 25.

4. THIS COURT ORDERS that all Receiver's Certificates issued by the Receiver in respect of the Second Tranche Term Sheet shall rank *pari passu* as among themselves, but shall rank subordinate to all Receiver's Certificates issued by the Receiver in connection with the Term Sheet.

5. THIS COURT ORDERS that the Receiver is authorized to remit the Proceeds to WestLB AG, Toronto Branch, as Agent for the Lenders, to be applied to the amounts outstanding under the Receiver's Borrowings and the Term Sheet.

Institutional Sales Process Protocol

6. THIS COURT ORDERS that the Protocol in the form attached hereto as Schedule "A" outlining the process by which the Institutional Sales Process is to be conducted, be and is hereby approved, and the Receiver is authorized to take such steps as are considered necessary or desirable in carrying out the Protocol. The Receiver may seek advice and directions from the Court in respect of any aspect of the Protocol.

Trust Allocation

7. THIS COURT ORDERS that the Trust Allocation between RRDI and Unit Owners be and is hereby approved.

8. THIS COURT ORDERS and directs McCarthys to pay the sum of \$ 1,640,355.85 from those funds held by it in respect of RRDI to the Receiver, and to deliver to the Receiver a certified cheque issued by one Unit Owner in the amount of \$17,391.84 payable to Muskoka Standard Condominium Corporation No. 62 (the "**Cheque**") with respect to common area expenses for that Unit Owner's Unit currently held in escrow by McCarthys, to be held by the Receiver and distributed in accordance with the Trust Allocation and in fulfillment of the trust obligations of RRDI to Unit Owners as follows:

- (a) \$413,079.74 with respect to common area expenses for 22 Units, which, together with the Cheque is to be remitted to Muskoka Standard Condominium Corporation No. 62 for payment of common area expenses on behalf of certain Unit Owners, to be applied against the accounts of the relevant Unit Owners;
- (b) \$210,000.00 to be retained by the Receiver to honour certain Indulgence Cards (as defined in the Eighth Report) for relevant Unit Owners, in accordance with their respective entitlements;
- (c) \$211,880.32 to be remitted to Miller Thomson in trust, for payment of realty taxes on behalf of Unit Owners in accordance with their respective entitlements;
- (d) in respect of two Units that are subject to certain modified sale/leaseback transactions, as described in the memo of Fraser Milner Casgrain LLP attached at Appendix "K" to the Eighth Report:
 - (i) \$37,751.32 on account of common area expenses;
 - (ii) \$20,813.62 on account of realty taxes;
 - (iii) \$5,670.00 on account of telecommunications services; and
 - (iv) \$2,812.95 on account of entry fees to the Red Leaves Resort Association;

to be remitted by the Receiver in accordance with the provisions of the sale/leaseback transactions in respect of those two Units (other than entry fees to the Red Leaves Resort Association, which shall be held by the Receiver pending further direction of the Court);

- (e) \$3,263.58 for payment of entry fees to the Red Leaves Resort Association on behalf of certain Unit Owners, to be held by the Receiver pending further direction of the Court;
- (f) \$4,704.00 to be remitted to Marriott Hotels for payment of Marriott Gold membership fees on behalf of certain Unit Owners; and
- (g) the balance of \$730,380.32 to be paid to the Receiver as property of RRDI.

9. THIS COURT ORDERS that the amounts to be distributed by the Receiver in accordance with paragraph 8 above shall only be distributed by the Receiver for and on behalf of each Unit Owner (the “**Unit Owner Distribution**”) upon execution and delivery to the Receiver by that Unit Owner of a receipt document, in a form satisfactory to the Receiver, acknowledging payment of the Unit Owner Distribution, and acknowledging satisfaction of those obligations of RRDI under the relevant Unit Owner Settlement Agreement (defined in the Eighth Report) that are satisfied as a result of the Unit Owner Distribution, and to the extent such obligations are satisfied thereby, agreeing that there shall be no further obligation of RRDI or the Receiver in respect of such obligation under the relevant Unit Owner Settlement Agreement. To the extent that a Unit Owner Distribution satisfies an obligation of RRDI under the relevant Unit Owner Settlement Agreement, such Unit Owner shall have no claim in respect of that obligation under either of the Unit Owner Charges provided for in paragraph 8 of the Unit Owner Settlement Agreements and paragraph 10 of the Amended Order of this Court dated August 18, 2009, and the relevant Unit Owner Charge is correspondingly reduced.

Red Leaves Trademark

10. THIS COURT ORDERS that the Receiver be and is hereby authorized to repudiate any and all trademark licence agreements or arrangements for the use of the Red Leaves trademark, oral or otherwise, as may be in effect as between RRDI and any other persons or entities.

11. THIS COURT ORDERS that the Receiver be and is hereby authorized to enter into a trademark licence agreement, terminable on 180 days notice, with 1515511 Ontario Inc. and such other affiliates of RRDI as the Receiver may agree, on such terms as the Receiver may deem appropriate.

Fees and Disbursements of Miller Thomson

12. THIS COURT ORDERS that the Receiver be and is hereby authorized to pay the outstanding accounts of Miller Thomson as approved by the Receiver in respect of services provided in its capacity as Representative Counsel and in its capacity as counsel for the Ad Hoc Committee of Unit Owners.

McCarthy's Fees

13. THIS COURT ORDERS that paragraph 11 of the Order of Mr. Justice Cumming dated July 8, 2009, be and is hereby amended to delete the reference to the amount of \$220,183.13, and substitute the amount of \$242,985.09.

Additional Parcels of Land

14. THIS COURT ORDERS that the Appointment Order be and is hereby amended by amending Schedule "A" to the Appointment Order, to add the legal description of two additional parcels of real property as follows:

Signage Lands

PIN 48142-0383(LT)

PART OF LOT 25, CONCESSION 11, MEDORA, BEING PART 7 ON PLAN 35R3373; S/T EASEMENT IN FAVOUR OF MUSKOKA CONDOMINIUM PLAN NO. 62 AS IN MT63413; MUSKOKA LAKES; THE DISTRICT MUNICIPALITY OF MUSKOKA.

Additional Lands Located on the E/S of Paignton House Road

PIN 48142-0384(LT)

PART OF LOT 25, CONCESSION 11, MEDORA, BEING PART 8 ON PLAN 35R3373, PART OF THE ROAD ALLOWANCE BETWEEN LOTS 25 AND 26, CONCESSION 11, MEDORA (CLOSED BY BY-LAW 72-34, REGISTERED AS INSTRUMENT NO. DM105704), BEING PARTS 6 AND 7 ON PLAN RD1906; MUSKOKA LAKES, THE DISTRICT MUNICIPALITY OF MUSKOKA.

Name Change

15. THIS COURT ORDERS that all references to McIntosh & Morawetz Inc. in all prior Court Orders, Reports, and other material filed with the Court shall be taken to be a reference to Alvarez & Marsal Canada Inc.

Eighth Report

16. THIS COURT ORDERS that the Eighth Report, and the activities and conduct of the Receiver described therein, be and are hereby approved.

Sealing Order

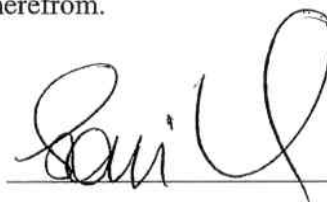
17. THIS COURT ORDERS that Confidential Appendices 1 and 2 filed with the Eighth Report be and are hereby sealed and shall remain sealed until further Order of this Court.

Aid and Recognition

18. 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.

Provisional Execution

19. THIS COURT ORDERS that pursuant to the BIA, section 195, this Order is subject to provisional execution notwithstanding any appeal therefrom.

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LE / DANS LE REGISTRE NO.:

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PER / PAR:

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SCHEDULE "A"

INSTITUTIONAL SALES PROCESS PROTOCOL

Background to the Receivership

On May 22, 2009, on the Application of WestLB AG, Toronto Branch ("**WestLB**") in its capacity as agent for a syndicate of senior secured lenders (the "**Syndicate**"), the Ontario Superior Court of Justice (the "**Court**") issued an order appointing Alvarez & Marsal Canada ULC ("**A&M**") and Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.) as trustee and interim receiver, respectively (the "**Trustee**" and the "**Interim Receiver**"), pursuant to Section 68 of the *Construction Lien Act* (Ontario) ("**CLA**") and Section 47(1) of the *Bankruptcy and Insolvency Act* (Canada) of all the property, assets and undertakings (the "**Assets**") of The Rosseau Resort Developments Inc. ("**RRDI**"). On June 2, 2009, the Court issued an Amended and Restated Appointment Order continuing the appointment of the Trustee and Interim Receiver and appointing A&M as receiver and manager of the Assets of RRDI (the "**Receiver and Manager**") pursuant to Section 101 of the *Courts of Justice Act* (Ontario) and pursuant to the CLA (the Trustee, Interim Receiver and the Receiver and Manager collectively defined as the "**Receiver**").

Background to the Institutional Sales Process

By Order dated July 8, 2009 (the "**July 8 Order**"), the Court approved the process proposed by the Receiver for the marketing and sale of the Assets of RRDI, consisting of both a retail sales program for individual condominium units (the "**Retail Sales Program**"), and an institutional sales process for the sale of the remaining Assets on an en bloc basis (the "**Institutional Sales Process**").

In connection with the Institutional Sales Process, the Receiver was authorized by the July 8 Order to retain Colliers MaCaulay Nicolls (Ontario) Inc. ("**Colliers**") as broker to conduct the Institutional Sales Process. The Receiver advised the Court and stakeholders in its Second Report to the Court dated July 3, 2009 that Colliers would work to identify parties interested in purchasing the Assets through its network and database of contacts, and develop an international advertising program for the sale of the Assets.

Colliers, with the assistance of the Receiver, has conducted its due diligence with respect to the Assets, and has assembled a preliminary list of prospective purchasers through its industry knowledge and independent research. Colliers and/or the Receiver have also been contacted by a number of parties who have identified themselves as prospective purchasers. Colliers intends to expand this preliminary list through further marketing efforts, including the issuance of press releases identifying the opportunity, and distributing an investment overview to its international network of offices and affiliates, and any other parties identified as having a potential interest.

The Receiver has worked with Colliers to develop and prepare all relevant sales and marketing materials and to establish a data room for due diligence by prospective purchasers. The Receiver has, with the assistance of its counsel, prepared the forms of relevant documents for use in the Institutional Sales Process.

Supervision and Reporting

- The Institutional Sales Process will be undertaken by the Receiver, with the assistance of Colliers, and subject to the Court's overriding supervision.
- The Receiver will report to the Court on the outcome of the Institutional Sales Process and seek Court approval of any final sale agreement or agreements arising out of the Institutional Sales Process.

Outline of the Protocol

- The Institutional Sales Process will be conducted under this Institutional Sales Process Protocol (the "**Protocol**") in three phases, with the consecutive steps of (i) obtaining expressions of interest from potential purchasers and pre-qualifying bidders for the next phase; (ii) inviting pre-qualified bidders to conduct due diligence and submit non-binding indicative offers; and (iii) identifying a short list of bidders with which to negotiate a final agreement or agreements.

(i) Phase I – Identification of Prospective Purchasers and Pre-Qualification of Bidders

- The Receiver, with the assistance of Colliers, is finalizing (a) a brief investment overview letter (the "**Investment Overview**") that will describe the opportunity and set out key aspects of the Protocol; (b) a form of confidentiality agreement (the "**Confidentiality Agreement**"); (c) a form of expression of interest to be submitted by prospective purchasers in order to be pre-qualified for Phase II (the "**Expression of Interest**"); (d) an information memorandum providing a detailed description of the Assets and the operations of RRDI (the "**Information Memorandum**") (e) a confidential exhibit to the Information Memorandum containing certain financial information with respect to the Assets (the "**Confidential Financial Exhibit**"); (f) an electronic data room for due diligence purposes; and (g) other relevant marketing materials.
- Colliers will continue to develop its list of prospects by advertising the opportunity by way of press releases and through the distribution of the Investment Overview to its international network of offices and affiliates.
- Commencing upon Court approval of this Protocol, potential purchasers identified by Colliers and/or the Receiver will be contacted and provided with a copy of the Investment Overview, the Information Memorandum (without the Confidential Financial Exhibit) and the form of Confidentiality Agreement.

- In order to be pre-qualified by the Receiver as a bidder and to obtain access to the Confidential Financial Exhibit and the electronic data room, potential bidders will be required to execute the Confidentiality Agreement and to submit a completed Expression of Interest to the Receiver on or before 5:00 p.m. EST on January 22, 2010 that describes: (a) the potential bidder and its business and industry expertise; (b) the potential bidder's financial wherewithal or ability to obtain financing in order to complete the transaction being contemplated; and (c) whether the potential bidder contemplates any third party equity participation or any form of joint acquisition, and if so, to provide a description of such third party. Expressions of interest may not be made by a person acting as agent for an undisclosed principal.
- Upon a review of the Expressions of Interest submitted to the Receiver, the Receiver will identify those who have demonstrated an interest and ability to consummate a transaction, based on the information submitted by the potential bidders and such other selection criteria as the Receiver may develop, in its discretion, who will be invited to participate in the next phase of due diligence and the submission of non-binding indicative offers ("**Pre-Qualified Bidders**"). The Receiver will provide invitations to such Pre-Qualified Bidders to participate in the next phase on or about January 29, 2010.

(ii) Phase II – Completion of Due Diligence and Submission of Non-Binding Offers

- Pre-Qualified Bidders will be provided with the Confidential Financial Exhibit and access to the electronic data room for due diligence purposes, together with the form of agreement of purchase and sale that the Receiver will require. The Receiver will arrange site visits and make presentations, along with Colliers, to the Pre-Qualified Bidders regarding the opportunity as determined to be appropriate by the Receiver.
- The submission of non binding indicative offers from Pre-Qualified Bidders will be required by 5:00 p.m. EST on March 31, 2010.
- WestLB AG, Toronto Branch, as agent for the Lenders under the Credit Agreement dated February 1, 2007, as amended, and/or as agent for the Lenders under the Term Sheet dated May 19, 2009 for the Receiver's Borrowings, approved by the Amended and Restated Appointment Order of June 2, 2009, and/or WestLB AG as Lender in respect of any additional Receiver's Borrowings approved by the Court and/or any Lender or participant in respect of such facilities, individually or collectively if so determined, shall be entitled to participate as a Pre-Qualified Bidder by offering to purchase some or all of the Assets in consideration of the satisfaction of some or part of the obligations of RRDI or the Receiver (a "**Credit Bid**"), and subject to Court approval, the Receiver may accept a Credit Bid.

(iii) Phase III – Negotiation of Final Agreement of Purchase and Sale

- From the non-binding indicative offers, the Receiver will identify a short list of Pre-Qualified Bidders with whom it will enter into negotiations in order to complete a binding agreement or agreements of purchase and sale, with an approximate target for completion of May 2010.

Miscellaneous

- The Receiver reserves the right to reject any or all of the offers received and to extend or abridge any of the timelines described herein. The Receiver will be entitled to seek advice and directions from the Court in respect of this Protocol and any steps taken hereunder.
- Court approval will be required in respect of any offer accepted and/or any proposed agreement or agreements completed. The Receiver shall not be required to accept the highest and best bid in respect of the Assets, but shall be entitled to recommend to the Court a transaction that maximizes value for all stakeholders and minimizes closing risk.

Institutional Sales Process Protocol Outline and Timelines

Following are the phases and timelines for the process described above.

Phase I	
Activity	Date
<i>Identification of Prospective Purchasers and Pre-Qualification of Bidders</i>	On or before 5:00 p.m. EST January 22, 2010 (Expressions of Interest due) On or about January 29, 2010 (invitations to Pre-Qualified Bidders to participate in Phase II)
Phase II	
Activity	Date
<i>Completion of Due Diligence and Submissions of Non-Binding Offers</i>	On or before 5:00 p.m. EST March 31, 2010
Phase III	
Activity	Date
<i>Negotiation of Final Agreement of Purchase and Sale</i>	May 2010 - approximate target for court approval and completion of transaction

V.

WESTLB AG, TORONTO BRANCH

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

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Lawyers for WestLB, AG, Toronto Branch,
and Alvarez & Marsal Canada ULC and
Alvarez & Marsal Canada Inc., in their respective
capacities as Court-appointed receiver and manager,
interim receiver, and trustee

APPENDIX “E”

Court File No. CV-09-8201-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE MADAM
JUSTICE PEPALL

) TUESDAY, THE 1st DAY
) OF SEPTEMBER, 2009

**IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF
THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED,
AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990,
C. C.30, AS AMENDED**



WESTLB AG, TORONTO BRANCH

Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

ORDER

THIS MOTION, made by The Rosseau Resort Management Services Inc. ("RRMSI") by Notice of Motion dated August 19, 2009 (the "**RRMSI Motion**") for an order amending paragraph 6 of the Order of the Honourable Madam Justice Pepall dated August 18, 2009 as amended (the "**August 18 Order**") was heard the 28th day of August, 2009 at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of RRMSI dated August 19, 2009, the Sixth Report to Court of Alvarez & Marsal Canada ULC, in its capacity as Court-appointed receiver and manager pursuant to section 101 of the *Courts of Justice Act* (Ontario) and trustee and receiver and manager under the *Construction Lien Act* (Ontario), and McIntosh & Morawetz Inc., in its capacity as interim receiver pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* of the undertaking, assets and property of The Rosseau Resort Developments Inc. ("RRDI")

(jointly and collectively, the "RRDI Receiver") dated August 21, 2009 (the "Sixth Report"), the Supplementary Report to the Sixth Report dated August 25, 2009, the Second Report to Court of the RRDI Receiver dated July 3, 2009, the Supplementary Report to the Second Report of the RRDI Receiver dated July 7, 2009, the Fourth Report of the RRDI Receiver dated August 12, 2009, the Supplementary Report to the Fourth Report of the RRDI Receiver dated August 14, 2009, the Affidavit of Ken Fowler dated August 24, 2009, the Supplementary Motion Record of RRMSI dated August 27, 2009, and the letter dated November 5, 2008 from Red Leaves to Gordon and Judy Jacobs, and on hearing the submissions of Miller Thomson LLP as representative counsel appointed pursuant to the Order of the Honourable Madam Justice Pepall dated August 20, 2009, independent counsel for the RRDI Receiver, counsel for WestLB AG, Toronto Branch and the RRDI Receiver, counsel for Marriott Hotels of Canada, Ltd., counsel for Fortress Credit Corp. and counsel for RRMSI, no one appearing for any other person on the service list,

1. THIS COURT ORDERS that the RRMSI Motion to amend paragraph 6 of the August 18 Order be and is hereby dismissed without costs without prejudice to claims that may be made by either the Receiver of RRDI or RRMSI to the subject matter of the record and report referred to in paragraph 5 of the RRMSI Receivership Order dated September 1, 2009.



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WESTLB AG, TORONTO BRANCH
Applicant

V.

THE ROSSEAU RESORT DEVELOPMENTS INC.
Respondent

ONTARIO

**SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO**

ORDER

FRASER MILNER CASGRAIN LLP
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Telephone: 416 863-4740
Facsimile: 416 863-4592

Independent Lawyers for Alvarez & Marsal Canada
ULC, and McIntosh & Morawetz Inc., in their
respective capacities as Court-appointed Interim
Receiver, Trustee, Receiver and Manager

APPENDIX “F”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM)	THURSDAY, THE 21 ST DAY
)	
JUSTICE MESBUR)	OF JULY, 2011

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

ORDER
(Ancillary to Approval and Vesting Order)

THIS MOTION, made by Alvarez & Marsal Canada ULC, in its capacity as Court-appointed receiver and manager pursuant to section 101 of the *Courts of Justice Act* (Ontario) and trustee and receiver and manager under the *Construction Lien Act* (Ontario), and Alvarez & Marsal Canada Inc., in its capacity as interim receiver pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (jointly and collectively, the “**Receiver**”), of the undertaking, property and assets (the “**Assets**”) of The Rosseau Resort Developments Inc. (“**RRDI**”), for an Order, supplementary to an approval and vesting order granted on this date (the “**Approval and Vesting Order**”) approving the sale transaction (the “**Transaction**”) contemplated by an

agreement of purchase and sale between RRDI by its Receiver and Canadian Niagara Hotels Inc. ("**Canadian Niagara**") dated as of June 30, 2011 and accepted by the Receiver on July 4, 2011 (the "**Purchase Agreement**"):

- (a) abridging the time for service of this Notice of Motion and Motion Record, if necessary, validating service of the Notice of Motion and Motion Record, and dispensing with further service thereof;
- (b) granting certain releases to the Receiver in connection with certain Assumed Liabilities and other obligations;
- (c) confirming certain payments to the Condominium Corporation as directed by the relevant Unit Owners and releasing the Receiver from any further obligation related thereto;
- (d) directing payment in respect of certain potential tax refunds that may be received;
- (e) authorizing Unit Owners with Leases with RRDI to give notice of termination of such Leases;
- (f) authorizing distribution of net proceeds in repayment of Receiver's Borrowings;
- (g) confirming the waiver by Marriott of introduction fees on the sale of the Purchased Assets to 2253100 Ontario Inc. (the "**Purchaser**"), an affiliate of Canadian Niagara, pursuant to the Purchase Agreement;
- (h) sealing Confidential Appendices "I", "II" and "III" to the Report pending further Order of this Court;
- (i) adjourning the trial date that was set by the Order of Justice Campbell dated December 7, 2010 (the "**December 7 Order**") for certain Undetermined Lien Claims, as defined in the December 7 Order, for purposes of complying with section 37 of the *Construction Lien Act*; and
- (j) such further and other relief as counsel may request and this Honourable Court deems just,

was heard this day, at 330 University Avenue, Toronto, Ontario.

ON READING the Twenty-First Report of the Receiver dated July 11, 2011 (the "**Report**"), the Supplementary Report of the Receiver dated July 19, 2011, (the "**Supplementary Report**"), the affidavits of service of Christina DeLuca, sworn July 15, 19, and 20, 2011; Natalina Arvaj, sworn July 13 and 20, 2011; Tim Lenehan sworn July 13 and 19, 2011; John Gallant, sworn July 13, 2011; Barry Atwood, sworn July 13, 2011; Leslie Pelling, sworn July 13, 2011; Daniel Webster, sworn July 20, 2011; and Wondimu Feleke, sworn July 19, 2011, all filed (the "**Affidavits of Service**"), filed, and on hearing the submissions of counsel for WestLB AG, New York Branch ("**WestLB AG**") and the Receiver, independent counsel for the Receiver, counsel for Marriott Hotels of Canada Ltd., counsel for CIT Financial Ltd., counsel for Canadian Niagara, and Gordon Jacobs, no one else appearing,

1. **THIS COURT ORDERS AND DECLARES** that capitalized terms not otherwise defined in this Order have the same meaning as in the Report.
2. **THIS COURT ORDERS AND DECLARES** that service of the Notice of Motion and the Motion Record in accordance with the Affidavits of Service, including the method and timing of notice, service to the service list by way of email and courier, and service on each individual Unit Owner by way of email to the email address for each Unit Owner maintained by the Receiver in its records from time to time pursuant to the Order of Mr. Justice Campbell dated July 5, 2011, shall be and is hereby abridged and validated, so that this Motion is properly returnable today and any further service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.

Release

3. **THIS COURT ORDERS AND DECLARES** that as the Purchase Agreement requires the purchaser thereunder to assume the Assumed Liabilities (as defined and described in the Purchase Agreement) on the terms and conditions of the Purchase Agreement, upon closing of the Purchase Agreement, the Receiver and RRDI, and their respective officers, directors, employees and agents, including RRDI's representatives on the Board of Directors of the Condominium Corporation (the "**Releasees**") shall be and are hereby released and discharged from any and all claims in respect of any such Assumed Liabilities to which the Releasees are

now, or may hereafter be subject, including any and all obligations, claims, liabilities, losses or damages relating to matters that were raised, or which could have been raised in the within receivership proceedings, or otherwise, in respect of the Assumed Liabilities.

4. THIS COURT ORDERS AND DECLARES that, in addition to and without limiting the foregoing, upon Closing the Releasees shall have no further liability (a) under the RPMAs; and (b) in respect of those matters relating to the Condominium Corporation described in paragraphs 2.15 and 2.16 of the Purchase Agreement. Neither the Receiver or RRDI shall be required to call a turn-over meeting under the *Condominium Act* on the Closing of the Transaction.

Trust Funds held by the Receiver on Behalf of Unit Owners

5. THIS COURT ORDERS that the funds held by the Receiver in trust on behalf of certain Unit Owners in respect of Indulgence Card and other Common Expense Subsidies shall be paid to the Condominium Corporation as directed by the relevant Unit Owners, and the Receiver shall be released and discharged from and of any and all obligations and claims in respect of such funds upon such payment.

Tax Refund

6. THIS COURT ORDERS AND DIRECTS the Township of Muskoka Lakes to remit to the Receiver, on behalf of RRDI, any refunds of realty taxes that may be payable in respect of the Purchased Assets attributable to the years prior to 2011 and to the portion of 2011 attributable to the period prior to July 16, 2011, notwithstanding the sale and vesting of the Purchased Assets to and in the Purchaser in accordance with the Approval and Vesting Order, and notwithstanding any subsequent sale of any such Purchased Assets to any subsequent purchaser that may be made.

Leases

7. THIS COURT ORDERS AND DECLARES that Sale/Leaseback Unit Owners who have executed Leases with RRDI, by its Receiver, are hereby authorized to give notice of termination of such Leases to RRDI in accordance with the terms of such Leases and that their rights of usage under the RPMAs to which they are parties continue after Closing unamended by such Leases.

Distribution of Proceeds of Transaction

8. THIS COURT ORDERS that the net proceeds of sale received by the Receiver on Closing shall be remitted as soon as practicable thereafter to WestLB AG as Agent for the Syndicate to be applied to the amounts outstanding under the Receiver's Borrowings subject to an appropriate reserve in favour of the Receiver for the completion of the administration of the estate.

9. THIS COURT ORDERS AND DECLARES that the remittance of the net proceeds of sale by the Receiver to WestLB AG as provided at paragraph 8 is not a "distribution" for purposes of section 159 of the Income Tax Act (Canada), section 270 of the Excise Tax Act (Canada), section 107 of the Corporations Tax Act (Ontario) and section 117(1) of the Taxation Act, 2007 (Ontario), and that the Receiver, in making the payments and remittances ordered herein is not "distributing", or considered to have "distributed" the net sale proceeds, and shall have no obligation to obtain a clearance certificate in respect of such payments or remittances. The Receiver shall incur no personal liability for or obligation to remit amounts payable to the Canada Revenue Agency in respect of amounts owing by RRDI for taxes under such Acts for making the payments and remittances ordered.

Introduction Fees

10. THIS COURT ORDERS AND DECLARES that no Introduction Fees are payable by RRDI or the Receiver to Marriott under or pursuant to a Marketing and License Agreement dated as of July 23, 2009 in respect of the Purchase Agreement.

Sealing of Confidential Appendices

11. THIS COURT ORDERS that Confidential Appendices "I", "II" and "III" to the Report be and are hereby sealed pending further order of the Court.

Other Relief

12. THIS COURT ORDERS that the Report and the Supplementary Report, and the activities of the Receiver as described therein, be and are hereby approved.

13. THIS COURT ORDERS that the Receiver shall apply for its discharge on or about 60 days following Closing of the Transaction.

14. THIS COURT ORDERS that the trial date for certain Undetermined Lien Claims, as set by the Court in the December 7 Order for purposes of complying with section 37 of the *Construction Lien Act*, is adjourned to a date to be scheduled at a 9:30 scheduling hearing on the Commercial List.

15. THIS COURT ORDERS that pursuant to the BIA, section 195, this Order is subject to provisional execution notwithstanding any appeal therefrom.



ENTERED AT THE CLERK'S OFFICE
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LE / DANS LE REGISTRE NO.:

JUL 21 2011

PER/PAR:



IN THE MATTER OF Section 47(1) of the *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.C. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED
WESTLB AG, TORONTO BRANCH V. THE ROSSEAU RESORT DEVELOPMENTS INC.

Applicant

Respondent

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER
(Ancillary to Approval and Vesting Order)**

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Independent Lawyers for Alvarez & Marsal Canada ULC, and Alvarez & Marsal Canada Inc., in their respective capacities as Court-appointed Receiver and Manager, Trustee, and Interim Receiver