



Court File No. VLC-S-S-249020

VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *LAW AND EQUITY ACT*,

R.S.B.C. 1996, C. 253, AS AMENDED

AND IN THE MATTER OF THE PROCEEDINGS OF

SVC-MOUNTAINSIDE ULC AND SHELL OWNERS ASSOCIATION – PACIFIC

Petitioners

PROPOSED ADMINISTRATOR'S PRE-FILING REPORT

BDO CANADA LIMITED

JANUARY 22, 2025

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I. INTRODUCTION

1. Shell Owners Association – Pacific (“**SOAP**”) and SVC-Mountainside ULC (“**ULC**” and together with SOAP, the “**Petitioners**”) have filed a petition with this Court seeking certain relief pursuant to the *Law and Equity Act*, R.S.B.C 1996, c. 253, as amended (the “**LEA**”), including appointing BDO Canada Limited (“**BDO**”) as court-appointed administrator (in such capacity, the “**Administrator**” and until such time as appointed, the “**Proposed Administrator**”) of the Petitioners. BDO’s consent to act as Administrator is attached hereto as **Appendix “A”**.
2. SOAP is a non-stock corporation incorporated under the laws of the State of Delaware on December 22, 2004, and is registered extra-provincially under the laws of the Province of British Columbia. SOAP is a subsidiary of ULC. As a non-stock corporation, SOAP is controlled by the SOAP Members (as defined herein), through its board of directors.
3. ULC is an unlimited liability corporation incorporated under the laws of the Province of Nova Scotia on December 23, 2004, and is registered extra-provincially in British Columbia. ULC is an indirect subsidiary of Travel + Leisure Co. (“**T+L**”), a publicly traded corporation listed on the New York Stock Exchange with a diverse global portfolio of resort, membership and lifestyle travel brands.
4. As described in further detail herein, the Petitioners are facing a looming financial crisis as a result of significant unfunded capital expenditures, material and rising delinquency rates from the membership base, and the decision of their parent company that it is no longer prepared to fund operational shortfalls as it did historically.
5. The relief sought by the Petitioners is intended to provide a forum to implement an orderly restructuring through the sale of their assets in a transparent and court-supervised process. The Petitioners’ business model and legal structure are complex. The proposed restructuring process is designed to address such complexity and provide the Petitioners with the tools to implement a transaction that will maximize recoveries for stakeholders. In the circumstances and as further detailed herein, the Proposed Administrator is supportive of the relief sought by the Petitioners.

II. PURPOSE OF REPORT

6. The purpose of this pre-filing report (the “**Report**”) of the Proposed Administrator is to provide the Court with background relating to the relief sought by the Petitioners, including:
 - a) the proposed appointment of BDO as Administrator of the Petitioners;

- b) the proposed sale and investment solicitation process (“**SISP**”) in respect of Shell Mountainside Lodge, including the engagement of the Listing Agent (as such terms are defined herein) by the Proposed Administrator;
- c) the proposed stalking horse asset purchase agreement dated December 16, 2024 (the “**Stalking Horse Agreement**”) among the Petitioners, as vendors, and Executive Mountainside Holdings Ltd. (the “**Stalking Horse Bidder**”), as purchaser; and
- d) the proposed Administration Charge and Directors’ Charge (as each are defined herein).

III. DISCLAIMER

- 7. In preparing this Report, the Proposed Administrator has relied upon the books and records of the Petitioners and their affiliates’ books and records, unaudited and draft financial information available, certain financial information obtained from third parties, third party reports and discussions with various individuals (collectively, the “**Information**”). The Proposed Administrator has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided, and in consideration of the nature of the evidence provided to this Court, in relation to the relief sought herein. The Proposed Administrator has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook and, as such, the Proposed Administrator expresses no opinion or other form of assurance in respect of the Information. An examination of the Petitioners’ financial forecasts in accordance with the Chartered Professional Accountants of Canada Handbook has not been performed. Future-oriented financial information reported on or relied upon in this Report is based upon assumptions regarding future events; actual results achieved may vary from forecast and such variations may be material.
- 8. This Report has been prepared for the use of the Court to provide general information and background relating to the proceedings detailed herein. This Report should not be relied upon for any other purposes. BDO will not assume any responsibility or liability for losses incurred as a result of the circulation, publication, reproduction, reliance on or use of this Report contrary to the provisions of this paragraph.
- 9. This Report should be read in conjunction with affidavit of Mr. Anthony Cimo sworn on December 23, 2024, in support of the Petitioners’ petition (the “**Cimo Affidavit**”).

10. Unless otherwise noted, all monetary amounts contained in this Report are expressed in Canadian dollars.

IV. BACKGROUND

11. The Petitioners operate and manage a resort comprised of a vacation lease business line and a timeshare business line (collectively, the “**Business**”) through partial ownership of a building that is located at 4417 Sundial Place, Whistler, British Columbia (“**4417 Sundial**”). 4417 Sundial consists of one four-story building and is governed by the Strata Property Act. Pursuant to the *Strata Property Act*, 4417 Sundial is divided into 93 strata lots (the “**Strata Lots**”).

12. The registered owners of the Strata Lots are as follows:

- a) SOAP is the registered owner in fee simple of 56 Strata Lots (the “**Petitioner Strata Lots**”), which are utilized as a vacation lease and timeshare resort (the “**Shell Mountainside Lodge**”);
- b) 0906175 B.C. Ltd. o/a Executive Hotels (“**Executive Hotels**”) is the registered owner of 34 Strata Lots utilized as a hotel under the name 'Executive Inn at Mountain Side;
- c) The Owners Strata Plan VR 1026 (the “**Strata Corporation**”) is the registered owner of two (2) Strata Lots. The Strata Corporation is an entity created by legislation and controlled by the strata owners. One (1) of the Strata Lots is used by the Shell Mountainside Lodge as a front desk and one (1) of the Strata Lots is a hallway that leads to an outdoor pool and other common amenities; and
- d) L & R Land Corporation, Inc. is the registered owner of one (1) Strata Lot that, historically, was used by an on-site restaurant, although the Proposed Administrator understands no restaurant is currently operating within the Strata Lot.

13. Although SOAP is the registered owner on title to the 56 Petitioner Strata Lots that comprise the Shell Mountainside Lodge, ULC is the beneficial owner of 36 of the Petitioner Strata Lots. SOAP is the beneficial owner of the remaining 20 Petitioner Strata Lots.

14. ULC transferred fractions of the Petitioner Strata Lots to SOAP, or to a master trust for the benefit of SOAP, pursuant to several annexation agreements (the “**Annexation Agreements**”). The effect of this is that the beneficial interest in the fractional Petitioner Strata Lots was transferred to SOAP and they are available to the Timeshare Plan (as defined herein). In exchange, ULC received Timeshare Points (as defined herein) that ULC markets and sells to individuals

interested in joining the Timeshare Plan. ULC has the sole authority to market and sell Timeshare Points in the Shell Mountainside Lodge.

15. Pursuant to the *Strata Property Act*, SOAP, as the registered owner, holds an ownership in fee simple interest in the 56 Petitioner Strata Lots and is also a member of the Strata Corporation.

Shell Mountainside Lodge Overview

16. Shell Mountainside Lodge operates as a resort consisting of an administrative office, a front desk and 42 units comprised of 9 studio units, 19 studio loft units, 13 one-bedroom units and 1 two-bedroom unit (each a “**Guest Room**”). 4417 Sundial also includes several amenities such as a heated outdoor pool, hot tub, fitness facility and underground parking for guests.

17. The Business is comprised of a timeshare business (the “**Timeshare Business**”) and a vacation lease business (the “**Vacation Lease Business**”). Each of the Timeshare Business and Vacation Lease Business are described in further detail below.

18. The property manager of Shell Mountainside Lodge is Carriage Hills Hospitality Inc. (“**CHHI**” or the “**Property Manager**”). The Property Manager is owned indirectly by the Petitioners’ ultimate parent.

19. Each Guest Room at Shell Mountainside Lodge is divided into weekly right of use entitlements (“**Intervals**”). Each Interval permits the right to use a Guest Room for a period of one-week on a fixed or floating time basis. There are three right of use types of Intervals.

- a) one week every year (an “**Every Year Interval**”);
- b) one week every other year on odd years (an “**Odd Year Interval**”); and
- c) one week every other year on even years (an “**Even Year Interval**”).

20. Accordingly, each Guest Room can be used for up to 52 separate Every Year Intervals or 104 separate Odd Year Intervals and Even Year Intervals in a 52-week calendar year. In certain years there is a 53rd calendar week, which increases the number of Intervals in those years to account for the additional week.

21. Individuals have a right to use an Interval pursuant to the various agreements that form the Business, including the Timeshare Purchase Agreements, Vacation Leases, or the SOAP and ULC respective beneficial ownership interests.

22. Intervals are subject to the interests of certain stakeholder groupings as follows:

- a) SOAP pursuant to the relevant Annexation Agreements (the “**SOAP Intervals**”);
- b) ULC pursuant to its retained interests which are not subject to a Vacation Lease (the “**ULC Intervals**”); and
- c) MLMA Members (as defined below) pursuant and limited to leasehold interests under the Vacation Leases (as defined below) (the “**MLMA Intervals**”).

23. Summarized in the table below are the Intervals categorized by stakeholder grouping and right of use type.

Stakeholder Group	Every Year	Even Year	Odd Year	Total
MLMA Intervals	934	219	189	1,342
SOAP Intervals	708	88	87	883
ULC Intervals	247	30	61	338
Total	1,889	337	337	2,563

24. Intervals can be further categorized by season (i.e. winter, spring, summer, fall) and whether the right of use permits a party to stay in a Guest Room for: (i) a specific week during the year, or (ii) a week during certain times of the year that must be reserved in advance. Moreover, the number of Intervals for each stakeholder group may change from time to time subject to the agreement documents for each stakeholder group as detailed herein.

Timeshare Business

25. SOAP operates the Timeshare Business, which consists of a vacation plan (the “**Timeshare Plan**”) wherein individuals may acquire a certain number of points (“**Timeshare Points**”) each year in exchange for certain annual fees. Individuals participate in the Timeshare Plan pursuant to a purchase agreement with SOAP (the “**Timeshare Purchase Agreement**”), at which time they become a member of SOAP (each a “**SOAP Member**”, and collectively, the “**SOAP Members**”). At present, there are approximately 433 SOAP Members. SOAP Members may be classified as premier or founding members pursuant to the terms of their respective Timeshare Purchase Agreements. The Proposed Administrator understands that SOAP Members may have entered into more than one Timeshare Purchase Agreement.

26. The original purchase price under the Timeshare Purchase Agreement for SOAP Members ranges from approximately \$600 to \$115,000, depending on the number of Timeshare Points received pursuant to the Timeshare Purchase Agreement.

27. A SOAP Member may use their Timeshare Points to stay at Shell Mountainside Lodge by utilizing a SOAP Interval. Alternatively, Timeshare Points may be allocated towards staying at other resorts within the Timeshare Plan.
28. The number of Timeshare Points acquired by each of the current SOAP Members pursuant to each Timeshare Purchase Agreement ranges between 100 and 31,200. SOAP Members may have more than one Timeshare Purchase Agreement. For the 2025 calendar year, each Timeshare Point costs approximately \$0.5101 (plus applicable sales tax). The 2025 annual fees for SOAP Members range between \$637.63 and \$23,566.67 (plus applicable taxes), depending on the number of Timeshare Points received under the Timeshare Purchase Agreements. The number of Timeshare Points required for a one-week right-of-use period at Shell Mountainside Lodge ranges between approximately 2,500 and 8,000 Timeshare Points, depending on the season and room type.
29. As of August 31, 2024, SOAP reports having 4,089,458 Timeshare Points, of which 2,288,690 are allocated to SOAP Members, 864,085 are allocated to ULC and 936,683 are unsold.
30. The Timeshare Purchase Agreements do not include a termination provision. However, SOAP Members may sell their membership to third parties provided they meet certain conditions that are set out in the Timeshare Purchase Agreement.
31. The rights, privileges, and duties of SOAP Members are set out in SOAP's constating documents, which include the articles of incorporation and the bylaws of SOAP (the "**SOAP Bylaws**"). The SOAP Bylaws provide that SOAP's board of directors may manage the business and affairs of SOAP. The SOAP Bylaws are silent on whether, and how, the Timeshare Plan may be terminated.
32. If a SOAP Member is in default of amounts owing under the Timeshare Purchase Agreement, SOAP is permitted to suspend the SOAP Member's rights to make a reservation or refuse to allow the SOAP Member to check-in. Further, the Timeshare Purchase Agreement provides that SOAP is entitled to exercise any right as a secured creditor under the laws of the Province of British Columbia, including foreclosure on the membership. The foreclosure provision of the Timeshare Purchase Agreement appears to be the only way that the Timeshare Purchase Agreement can be effectively terminated.

Vacation Lease Business

33. ULC operates the Vacation Lease Business, which consists of approximately 1,300 vacation leases (the “**Vacation Leases**”) granted by ULC, as lessor, to MLMA Members (as defined herein), as lessees. The number of Vacation Leases may change from time to time due to expirations or terminations due to default. At present, the remaining duration of the Vacation Leases, on average, is approximately 23 years, with the average lease expiring in or around September 2046.
34. Mountainside Lodge Members Association (“**MLMA**”) is an unincorporated association that represents individuals with Vacation Leases (each an “**MLMA Member**”, and collectively, the “**MLMA Members**”). Pursuant to the Vacation Leases, the lessees automatically become MLMA Members. There are approximately 1,229 MLMA Members, however, the number of MLMA Members may change from time to time due to Vacation Lease expirations or terminations due to default.
35. Pursuant to the Vacation Leases, MLMA Members acquire a leasehold interest to use a Guest Room for a specified period of time in exchange for an initial fee and annual fees, which allows the MLMA Members to utilize an MLMA Interval. MLMA Members hold either a fixed Vacation Lease or a floating Vacation Lease, each with 50-year terms. A fixed Vacation Lease entitles an MLMA Member to stay in a designated Guest Room type for a specific week every year or every other year. A floating Vacation Lease allows an MLMA Member to stay in a designated type of Guest Room during certain weeks of the year that must be reserved in advance, on an every year or every other year basis.
36. The average original purchase price under the Vacation Lease was approximately \$12,500, with a range of \$2,268 to \$87,295. It is possible that a Vacation Lease includes more than one MLMA Interval, explaining why the original purchase price is so large for some MLMA Members.
37. The 2025 annual fees for each Guest Room for one week for an MLMA Member ranges between \$1,396.04 and \$2,041.57 (inclusive of applicable sales tax), depending on the type of Guest Room and the season in which an MLMA Member is permitted to stay at Shell Mountainside Lodge.
38. The Vacation Lease Business includes a rental pool program whereby MLMA Members may relinquish their right to use the Guest Room (i.e. MLMA Interval) under the Vacation Lease for

the purpose of allowing the Property Manager an opportunity to rent the Guest Room, with the proceeds of the rental being split between the MLMA Member and the Property Manager.

39. Like the SOAP Purchase Agreements, the Vacation Leases do not include a termination clause. However, MLMA Members may sell or assign their Vacation Lease to third parties provided that certain conditions are met, or MLMA Members may negotiate to assign their Vacation Lease back to ULC. MLMA Members may also grant security interests in respect of their Vacation Lease to third party lenders to obtain financing to acquire a Vacation Lease.
40. If an MLMA Member is in default of amounts owing under the Vacation Lease for 30-days or more, their right to use an MLMA Interval will be immediately suspended until the default is cured. During that period, ULC is entitled to sublet the defaulting MLMA Member's leasehold interest while the Vacation Lease remains in default. If the MLMA Member fails to remedy the default within six months after receiving notice of the default, the MLMA Member is deemed to have offered to sell their Vacation Lease to ULC for a portion of the original purchase price. ULC is not obligated to buy back the Vacation Lease in this scenario and may decline to do so. The default provision of the Vacation Lease is the only way for the Vacation Lease to be effectively terminated.
41. MLMA is governed pursuant to its bylaws (the "**MLMA Bylaws**"). The MLMA Bylaws provide that, among other things, MLMA may appoint an advisory committee. The MLMA Bylaws are silent on whether, and how, MLMA may be dissolved.

Cash Management

42. The cash management system of the Petitioners, MLMA and the Property Manager are highly integrated with T+L. Although the numerous agreements related to the operations of the Business set out the contractual terms related to the exchange of services and payments, in practice cash flows are intertwined through numerous entities and bank accounts.
43. The Proposed Administrator understands that in the Vacation Lease Business, receipts from a Guest Room in the rental pool program are deposited into the Property Manager's bank accounts, through Extra Holidays, which is a related entity and part of T+L. Although receipts from the Vacation Leases are deposited into two operating bank accounts maintained with the Bank of Nova Scotia in the name of ULC, these operating bank accounts are contained in the financial reporting of MLMA and not contained in the financial statements of ULC. Further, there is a bank

account related to payroll processing maintained with the Bank of Nova Scotia in the name of ULC, however, this account is not included in the financial reporting of ULC.

44. Payments of ULC's obligations are funded through and paid by related parties within T+L, with corresponding journal entries recorded to document the transactions, with each party recording a related party receivable or payable in their respective accounting. As a result of the cash management system in place, ULC reports no cash on hand.
45. Although a registered owner of 36 Petitioner Strata Lots and counterparty to both the Timeshare Purchase Agreements and Vacation Leases, ULC, through related entities, disburses funds to both SOAP and MLMA. ULC disburses funds to SOAP with respect to its allotment of Timeshare Points and funding requirements under the Subsidy Agreement. ULC disburses funds to MLMA with respect to the Intervals for which ULC maintains an interest.
46. With regards to the Timeshare Lease Business, receipts are deposited into two bank accounts maintained with the Bank of Nova Scotia in the name of SOAP. As such, receipts from SOAP Members with respect to Timeshare Purchase Agreements as well as from ULC, as described above, are deposited into these SOAP bank accounts.
47. Furthermore, with regards to the Vacation Lease Business, in addition to the two bank accounts in the name of ULC but reflected in the financial reporting of MLMA, there is also a reserve bank account maintained at the Royal Bank of Canada in the name of MLMA. The reserve bank account is an investment account that holds contingency reserve funds in accordance with the Vacation Leases and Strata Act.
48. Overall, in practice, the majority of the financial activity of the Shell Mountainside Lodge is reported to occur through MLMA, making tracking the receipts and disbursements of the Petitioners very difficult and may require a reconciliation during this proceeding.

V. FINANCIALS

Subsidy Agreement

49. Pursuant to a limited subsidy agreement (the "**Subsidy Agreement**") between ULC and SOAP, ULC is required to pay the difference between the cumulative total expenses incurred by SOAP in a given month and the cumulative total fees payable by SOAP Members and all other amounts paid to SOAP from any source other than ULC in the same month. A copy of the Subsidy

Agreement is attached as Exhibit “G” to the Cimo Affidavit. ULC is not responsible for the payment of any deficiencies with respect to fees for capital improvements, insurance policy deductibles, or underinsured or uninsured losses.

50. In its financial statements for the fiscal years 2019 to 2023, SOAP reports subsidy income from ULC pursuant to the Subsidy Agreement to fund SOAP’s operating losses. This income also includes revenue derived from ULC’s allocation of Timeshare Points. The reported subsidy income for the fiscal years 2019 to 2023 is summarized in the table below:

	2019	2020	2021	2022	2023
Subsidy Income	260,664	325,574	458,374	313,398	568,966

51. As at October 31, 2024, SOAP reports subsidy income from ULC of \$291,179.

52. As at December 31, 2023, ULC reports related party net indebtedness of approximately \$1,224,408, which ULC has received to fund its operational losses and advances made to SOAP pursuant to the Subsidy Agreement.

Assets and Liabilities

53. Based on the externally reviewed financial statements of SOAP, as at December 31, 2023, the total assets of SOAP were approximately \$360,188 and consisted of the following:

Cash	\$ 242,408
Owner Receivable, Net	12,929
Prepaid Expenses and Other Assets	104,851
Total	\$ 360,188

54. Further, based on the externally reviewed financial statements of SOAP as at December 31, 2023, total liabilities were approximately \$309,454 and primarily consisted of deferred revenue, accrued liabilities and amounts owing to ULC. The SOAP December 31, 2023 financial statements are attached as Exhibit “L” to the Cimo Affidavit.

55. As at October 31, 2024, SOAP’s internal financial statements report assets of approximately \$559,000 and liabilities of approximately \$508,000.

56. ULC does not prepare financial statements. Based on the internal trial balance of ULC, as at December 31, 2023, total assets of ULC were approximately \$245,847 and primarily consisted of prepayments to SOAP with respect to ULC’s allotment of Timeshare Points.

57. Further, based on the internal trial balance of ULC, as at December 31, 2023, total liabilities of ULC were approximately \$1,334,432 and primarily consisted of net intercompany indebtedness owing to numerous related entities, which have funded ULC's operational losses and form part of the cash management system used at Shell Mountainside Lodge.
58. The Petitioner Strata Lots are not recorded in the Petitioners' respective financial statements, however, the Petitioner Strata Lots are the principal assets of the Petitioners, being either: (i) in the case of SOAP, fee simple ownership of the Petitioner Strata Lots, and (ii) through the various contractual relationships, beneficial ownership by SOAP and ULC of 20 Petitioner Strata Lots and 36 Petitioner Strata Lots, respectively.
59. The Total Deferred Capex (as defined herein) is not included in the liability figures reported in this section for either of the Petitioners. As reported below, the Total Deferred Capex amounts to approximately \$6.4 million. Of this, ULC and SOAP Members are estimated to be responsible for approximately \$4.2 million and \$2.2 million, respectively. Of ULC's \$4.2 million portion of the Total Deferred Capex, pursuant to the Vacation Leases, it is estimated MLMA Members may be responsible for approximately \$3.4 million.

Income

60. Although ULC is the counterparty to agreements under both the Timeshare Business and the Vacation Lease Business, ULC does not report revenues for either within its financial reporting. Rather, SOAP reports the revenue associated with the Timeshare Business and MLMA reports the revenue associated with the Vacation Lease Business.
61. For the year ended December 31, 2023, ULC reported no revenue with expenses of approximately \$413,000, resulting in a \$413,000 loss.
62. SOAP reported revenues of approximately \$1.84 million for the year ended December 31, 2023, inclusive of approximately \$569,000 from ULC with respect to ULC's allocation of Timeshare Points and the subsidy received under the Subsidy Agreement, and expenses of approximately \$1.84 million, inclusive of foreign exchange losses, resulting in no excess revenues over expenses for the period.
63. MLMA reported revenues of approximately \$3.3 million for the year ended December 31, 2023. This total includes approximately \$1.2 million from SOAP and \$350,000 from ULC, attributable

to their respective Interval interests. For the period, MLMA reported excess revenues over expenses of approximately \$7,000.

Delinquencies and Bad Debts

64. SOAP and MLMA have been unable to provide delinquency reports or data detailing each billing year a SOAP Member or an MLMA Member was delinquent as we understand the accounting reporting systems do not track this level of detail. Therefore, the length of time each SOAP Member or MLMA Member account has been delinquent and the composition of the delinquent amounts by period are unknown.

65. As at September 30, 2024, approximately 82 SOAP Members (approximately 19% of all SOAP Members) were in arrears on account of unpaid amounts, including late fees and interest owing in the aggregate amount of approximately \$493,960.

66. In reviewing SOAP's historical financial statements, it is apparent that the number of delinquencies that have been recorded as bad debts has been significant. A summary of the SOAP bad debt provision for the fiscal years 2019 to 2023 is presented in the table below. The provision for bad debt expense has ranged from a low of approximately \$187,000 (17.0% of SOAP Member fee assessments) in fiscal 2019 to a high of approximately \$248,000 (21.3% of SOAP Member fee assessments) in fiscal 2023.

	2019	2020	2021	2022	2023
Bad Debts	186,737	207,717	218,255	210,603	248,129

67. The Proposed Administrator notes that there is a trend of increasing bad debts arising from delinquencies of SOAP Members, which has further exacerbated the poor financial situation of SOAP. If the annual fees required to be paid by SOAP Members pursuant to the Timeshare Purchase Agreement are increased, it is reasonable to expect that this would result in further delinquencies.

68. As at September 30, 2024, there were 601 accounts of MLMA Members (approximately 45% of all MLMA Members' accounts) that were in arrears on account of unpaid amounts, including late fees and interest owing in the aggregate amount of approximately \$7,268,455.

69. In reviewing MLMA's historical financial statements, it is apparent that the number of delinquencies which have been recorded as bad debts has been significant. A summary of the

bad debt provision for the fiscal years 2019 to 2023 is presented in the table below. The provision for bad debt expense has ranged from a low of approximately \$387,000 (14.1% of fee assessments) in fiscal 2019 to a high of approximately \$595,000 (19.7% of fee assessments) in fiscal 2021.

	2019	2020	2021	2022	2023
Bad Debts	386,990	506,034	594,509	504,133	552,489

70. The Proposed Administrator notes that there is a trend of increasing bad debts arising from delinquencies of MLMA Members, which has further exacerbated the poor financial situation of Shell Mountainside Lodge. If the annual fees required to be paid by MLMA Members pursuant to the Vacation Lease Agreements are increased, it is reasonable to expect that this would result in further delinquencies.

VI. CAPITAL IMPROVEMENTS

71. Capital expenditures related to 4417 Sundial are to be allocated among the Strata Lot owners based on their proportionate interest in 4417 Sundial. This includes ULC, SOAP, Executive Hotels, L&R Housing Corp., and the Strata Corporation, all of whom are responsible for these capital expenditures. Additionally, expenses of the Strata Corporation are allocated among its owners based on each owner's proportionate registered ownership interest in the Strata Corporation. These allocations are adjusted to account for a strata lot owned by the Strata Corporation but used exclusively by Shell Mountainside Lodge, resulting in the Shell Mountainside Lodge being responsible for approximately 62% of the expenses incurred in relation to the 93 Strata Lots that comprise 4417 Sundial.

72. Shell Mountainside Lodge engaged Armstrong Consulting Inc. to complete a 30-year reserve study for the Shell Mountainside Lodge from 2022 to 2051, which report was based on a site visit performed in June 2019 and issued to Mountainside Lodge Members Association on July 29, 2022 (the "**Armstrong Report**"). The Armstrong Report included an analysis of only the areas of the Petitioners' Strata Lots that formed part of the Business (i.e. the Guest Rooms), plus the HVAC and door lock systems. The Armstrong Report provided a summary of, among other things, annual capital expenditure requirements from 2022 through to 2051, which total approximately \$10.3 million. The Armstrong Report projected \$30,000 of capital expenditure requirements between 2022 and 2024 (the "**Armstrong Deferred Capex**") and approximately \$2,860,000 in 2025 for a total of approximately \$2,890,000 for the years 2022 through to 2025

(the “**Armstrong Capex**”). None of the identified capital expenditure recommendations have been implemented to date. The Armstrong Report is attached as Exhibit “N” to the Cimo Affidavit.

73. Additionally, Sense Engineering Ltd. was engaged by the Strata Corporation to complete a 30-year reserve study for the 4417 Sundial building from 2017 to 2046, which was issued in draft on June 7, 2016 (the “**Sense Report**” and together with the Armstrong Report, the “**Reserve Study Reports**”). The Sense Report pertained solely to the common assets of 4417 Sundial (i.e. roof, windows, parking garage, elevator, etc.) and provided a summary of, among other things, annual capital expenditure needs from 2017 through to 2046, which total approximately \$8.8 million. To date the vast majority of the capital improvement recommendations contained in the Sense Engineering Report have not been implemented due to the Petitioners’ financial constraints. The Sense Report projected capital expenditures of approximately \$6,380,000 between 2017 and 2024 (the “**Sense Deferred Capex**” and together with the Armstrong Deferred Capex, the “**Total Deferred Capex**”) and approximately \$470,000 between 2025 and 2028. The Sense Report projected total capital expenditures of approximately \$6,850,000 between 2017 and 2028 (the “**Sense Capex**” and together with the Armstrong Capex, the “**Total Capex**”). The Sense Report is attached as Exhibit “O” to the Cimo Affidavit.

74. Maintenance and repair costs for Shell Mountainside Lodge are shared between SOAP and ULC as the owners of the Petitioner Strata Lots. However, under the Timeshare Purchase Agreements and Vacation Leases, SOAP Members and MLMA Members are required to pay annual fees based on their proportionate share of these costs. These proportions vary over time due to factors such as the sale, termination, or default of Vacation Leases, as well as changes in the number of individuals participating in the Timeshare Plan. Each Guest Room is apportioned a share of capital expenditures based on Guest Room type as detailed in the below table:

Guest Room Type	Allocation (weeks)
Studio	0.9166
1 Bedroom	1.066
1 Bedroom Deluxe	1.166
2 Bedroom	1.333

75. On this basis, and in conjunction with the proportionate share for the capital expenditures related to the common property, the below table summarizes the proportionate responsibility for capital expenditures related to Shell Mountainside Lodge based on the Interval allocation:

Stakeholder Group	Proportion Share
SOAP Intervals	34.96%
ULC Intervals	12.87%
MLMA Intervals	52.16%
Total	100.00%

VII. SPECIAL ASSESSMENTS

76. The Petitioners, with the assistance of the Proposed Administrator, estimated potential annual special assessments up to 2028 (the “**Estimated Special Assessments**”), which are subject to numerous assumptions. The Estimated Special Assessments are amounts that may need to be levied upon SOAP Members and MLMA Members, in addition to funding required by ULC, to meet the capital requirements and reserve account balances outlined in the Reserve Study Reports.
77. The Estimated Special Assessments were computed in 2023, primarily based on the capital expenditures and reserve account balances in the Reserve Study Reports up to 2028. This calculation also incorporated estimated five-year cash flow projections for Shell Mountainside Lodge, the allocation of capital expenditures and reserve account obligations among stakeholder groups, and the assumption that cash balances reported in the financial statements of the Petitioners and MLMA would be used exclusively for the benefit of their respective stakeholder groups. However, this assumption may not align with the legal entitlements of each stakeholder group regarding cash balances.
78. Furthermore, the Estimated Special Assessments did not account for the reserve account balance held by the Strata Corporation, which was reported to total approximately \$182,000 as at December 31, 2023. Given that the Reserve Study Reports were issued several years ago, it is likely that the actual cost of completing the required capital improvements has increased due to inflation and the continued deterioration of the real property.
79. The Estimated Special Assessment for SOAP totals approximately \$4.6 million (or \$1.116 per Timeshare Point), plus applicable sales tax, spread over a 5-year period from 2024 to 2028. The Estimated Special Assessment ranges between approximately \$1,400 and \$51,600, plus applicable sales tax, over this five-year period for each Timeshare Purchase Agreement (noting a SOAP Member may have more than one Timeshare Purchase Agreement). Based on the number of Timeshare Points held by SOAP Members and ULC, it is estimated that SOAP

Members would be responsible for approximately \$2.9 million (an average of approximately \$6,700 per SOAP Member), ULC would be responsible for approximately \$821,000, and the unsold Timeshare Points allocated approximately \$835,000, would also be the responsibility of ULC. The Estimated Special Assessment of \$1.116 per Timeshare Point represents over two years of fees when compared to the current cost per Timeshare Point of \$0.5101. A special assessment of that magnitude would likely lead to increased delinquencies. The SOAP Members were not levied a special assessment in 2024 or 2025.

80. The Estimated Special Assessment for MLMA Members ranges between approximately \$747,000 and \$3.3 million, plus applicable sales tax, over a two-year period from 2024 to 2025, with no additional amounts projected to be required between 2026 and 2028. On a per MLMA Member basis, the Estimated Special Assessment ranges from approximately \$328 to \$1,442 for an Odd Year Interval or Even Year Interval and from \$656 to \$2,884 for an Every-Year Interval, plus applicable sales tax. The range for the Estimated Special Assessment for MLMA Members is based, among numerous other assumptions, on the treatment of whether the total cash balance or only the reserve account balance reported in its financial statements are considered when determining the required reserve balance. The Estimated Special Assessment for MLMA Members represent a broad ranging increase of approximately 25% to 148% when compared to the 2025 annual fees, depending on the type of Guest Room and Interval right of use period (i.e. Even Year Interval, Odd Year Interval, Every Year Interval). The MLMA Members were not levied a special assessment in 2024 or 2025.

81. ULC is responsible for the remaining funding required with respect to the Total Capex and maintaining a sufficient reserve account. After consideration of the Estimated Special Assessments for SOAP Members and MLMA Members, the remaining funding requirement for ULC is estimated to total approximately \$1.3 million spread over a 5-year period from 2024 to 2028. This is in addition to the amounts paid by ULC for its allocation of Timeshare Points, any amounts paid pursuant to the Subsidy Agreement and amounts that should be paid by MLMA Members pursuant to the Vacation Leases.

82. Neither the SOAP Members nor the MLMA Members were levied a special assessment in 2024 or 2025. Any special assessment is likely to increase the delinquency rate among both SOAP Members and MLMA Members, which will result in additional financial stress for the Shell Mountainside Lodge.

VIII. NEED FOR RESTRUCTURING

83. The Business' current operations are unsustainable, absent significant capital injections to fund the Total Deferred Capex as well as shortfalls, due to prolonged and high delinquency rates. Additionally, the parent of SOAP and ULC has advised the Proposed Administrator that it is unwilling to provide any further funding for operational deficits or the Total Deferred Capex.
84. Issuing the Estimated Special Assessments to the SOAP Members and the MLMA Members is expected to further increase delinquency rates, placing additional burden on the members in good standing and ULC.
85. Currently, it is also challenging for a SOAP Member to exit the Timeshare Plan or for an MLMA Member to exit a Vacation Lease. Similarly, the Petitioners are challenged by the lack of termination clauses in the Timeshare Plan and Vacation Leases.
86. Considering the circumstances, the Petitioners propose to restructure the Shell Mountainside Lodge by divesting their interest in the Petitioner Strata Lots as detailed herein, with the assistance of the Proposed Administrator, through a transparent and commercially reasonable process.

IX. PROPOSED RESTRUCTURING

Restructuring Support Agreement

87. The Petitioners and the Executive Entities (as defined in the Cimo Affidavit) have entered into a Restructuring Support Agreement dated December 16, 2024 (the "**RSA**"). The RSA sets out the terms upon which the parties have agreed to restructure the Petitioners, including the terms of the SISF and the Stalking Horse Agreement. The RSA also contemplated that the Petitioners would obtain a debtor in possession financing facility, but the Proposed Administrator understands that the Petitioners are no longer seeking such relief and are actively exploring other financing options.. The RSA also provides for a resolution to ongoing litigation between the Petitioners and the Executive Entities. A copy of the RSA is attached as Exhibit "R" to the Cimo Affidavit.

Stalking Horse Agreement

88. On December 16, 2024, the Petitioners entered into the Stalking Horse Agreement with the Stalking Horse Bidder. The key terms of the Stalking Horse Agreement are summarized below.

All capitalized terms not expressly defined in this section are defined in the Stalking Horse Agreement.

- a) the Stalking Horse Bidder will purchase the Petitioners' interest in and to the Petitioner Strata Lots and all of the chattels, fixtures, furniture, equipment accessories, supplies, and other tangible personal property contained therein that are used in connection with the Business, save and except the specific assets excluded under the Stalking Horse Agreement (the "**Purchased Assets**");
- b) the aggregate purchase price for the Purchased Assets is: (i) cash in the amount of \$12 million; and (ii) the assumption of the Assumed Liabilities (defined herein);
- c) liabilities assumed by the Stalking Horse Bidder (the "**Assumed Liabilities**") include:
 - (i) all Liabilities related to the Purchased Assets arising after the Closing Date;
 - (ii) all Environmental Liabilities relating to the Purchased Assets before or after the Closing Date;
 - (iii) all Taxes with respect to the Purchased Assets for the period from and after the Closing Date; and
 - (iv) all Transfer Taxes;
- d) the Purchased Assets are to be purchased on an "as is, where is" basis;
- e) upon execution of the Stalking Horse Agreement, the Stalking Horse Bidder shall pay to the Proposed Administrator a cash deposit equal to \$1.2 million, which represents 10% of the total cash consideration ("**Deposit**");
- f) the Petitioners shall, to the extent practicable in the circumstances and subject to the proposed restructuring proceedings, continue to operate the Business in the ordinary course and use commercially reasonable efforts to maintain the Business;
- g) if the Stalking Horse Bidder is not the Successful Bidder, the Stalking Horse Bidder is entitled to a return of the Deposit (plus any actual interest that has accrued thereon) plus a break-fee equal to 1.5% of the purchase price cash consideration, being \$180,000 (the "**Break Fee**"); and
- h) the sale transaction contemplated by the Stalking Horse Agreement shall close no later than ten (10) business days following the date on which the Approval and Vesting Order is granted, or such other date as may be agreed to by the parties.

89. The Stalking Horse Agreement does not contemplate the assumption of any liabilities except for the Assumed Liabilities. As such, the Vacation Leases and the Timeshare Purchase Agreements will not be assumed by the Stalking Horse Bidder.
90. Having regard to the appraised value of the Petitioner Strata Lots pursuant to an appraisal obtained by SOAP in August 2023 (the “**Appraisal**”), and the estimated value of the Petitioner Strata Lots included in the real estate listing proposals received from three commercial realty brokerages experienced in selling hospitality assets (the “**Valuation Estimates**”), the Proposed Administrator is of the view that the consideration contemplated by the Stalking Horse Agreement is fair and reasonable.
91. The Proposed Administrator recommends that the Stalking Horse Agreement be read in its entirety and that readers do not rely solely upon the summary set out herein. A copy of the Stalking Horse Agreement is attached as Exhibit “T” to the Cimo Affidavit.

SISP

92. The Petitioners, together with the Proposed Administrator, have developed a comprehensive SISP to market the Petitioner Strata Lots and the Business in a manner designed to solicit the best possible offer for the assets. A copy of the SISP is attached as Schedule “B” to the proposed order approving the SISP. The Proposed Administrator recommends that the SISP be read in its entirety and that readers do not rely solely upon the summary set out herein. Capitalized terms used in this section and not otherwise defined have the meanings ascribed to them in the SISP.
93. The SISP will be conducted by the Proposed Administrator in consultation with the Petitioners. Upon the Court granting the Order appointing the Proposed Administrator, the Proposed Administrator will engage Avison Young Commercial Real Estate Services, LP (“**Avison**” or the “**Listing Agent**”), which specializes in the marketing and sale of hospitality assets, to act as the listing agent. Notwithstanding the fact that the Listing Agent has not yet been formally retained, the Proposed Administrator has consulted with the Listing Agent on the proposed terms of the SISP. Subject to the Court granting the proposed order approving the SISP, the Proposed Administrator and the Listing Agent will enter into a listing agreement (the “**Listing Agreement**”). A copy of the proposed Listing Agreement is attached hereto as **Appendix “B”**.
94. The SISP is structured to consist of two phases to be conducted over 91 days. In the first phase, any interested party that meets the preliminary participant requirements shall be provided with access to the Confidential Data Room to have the opportunity to prepare and submit a Phase I Bid by the Phase I Bid Deadline. Phase I Bids will be non-binding. Qualified Phase I Bidders

shall be invited to participate in the second phase in order to prepare and submit a Phase II Bid by the Phase II Bid Deadline. Phase II Bids must be unconditional and binding offers. If one or more Qualified Phase II Bids are considered to be a Superior Offer, each Qualified Phase II Bidder presenting a Superior Offer shall proceed to an auction with the Stalking Horse Bidder to identify the Successful Bid.

95. If the SISP is approved, the key milestone dates set out in the SISP will be moved back by approximately 17 days to reflect the date of the SISP approval order. Summarized in the table below are the proposed revised key milestone dates:

Milestone	Deadline
Commencement of the SISP	T (date of Court order approving the SISP)
Distribution of the Notice, Teaser Letter, Confidentiality Agreement and Acknowledgment of SISP	As soon as reasonably practicable following the SISP Approval Order being granted
Phase I Bid Deadline (5:00 PM (Pacific Time))	T + 60 days [March 24, 2025]
Phase II Bid Deadline (5:00 PM (Pacific Time))	T + 91 days [April 24, 2025]
Selection of Successful Bid(s), Back-Up Bid(s), or Notification of Auction (if any)	T + 98 days [May 1, 2025]
Auction (if any)	Within 3 business days [May 6, 2025]
Sale Approval Hearing	As soon as practicable
Closing Date Deadline	May 29, 2025

96. The principal terms of the SISP are summarized below.

- a) Solicitation of Interest: The Proposed Administrator together with the Petitioners and Listing Agent will prepare a list of potential bidders and distribute the Notice, Teaser Letter, Confidentiality Agreement and Acknowledgment of SISP;
- b) Access to Due Diligence Materials: Only parties that satisfy Phase I Participation Requirements will be eligible to receive access to the Confidential Data Room;

- c) Phase I: Non-binding letters of intent, along with a cash deposit equal to 10% of the Phase I Bid purchase price must be received by the Proposed Administrator by the Phase I Bid Deadline. The Proposed Administrator, in consultation with the Petitioners, will evaluate the Phase I Bids, and if any such bids are Qualified Phase I Bids, the applicable bidders will be allowed to participate in Phase II. If no Phase I Bids are received, the Stalking Horse Bidder shall be declared the Successful Bidder;
- d) Phase II: Binding purchase agreements must be received by the Phase II Bid Deadline. The Proposed Administrator, with approval from the Petitioners, shall identify if any Phase II Bids constitute a Superior Offer. If no Phase II Bids are received, the Stalking Horse Bidder shall be declared the Successful Bidder;
- e) Auction: If there is a Superior Offer, the Proposed Administrator shall call an Auction to identify the Successful Bid and any Back-Up Bid;
- f) Court Approval: The Petitioners shall bring a motion to approve the Successful Bid and any Back-Up Bid; and
- g) Closing of Transaction: Closing is to occur on or before May 29, 2025.

97. Except for the Break Fee contained in the Stalking Horse Agreement, no other bidder may request or receive any form of bid protection as part of any bid made pursuant to the SISP.

98. The sale of the Petitioner Strata Lots or Business will be on an “as is, where is” basis and without surviving representations or warranties of any kind.

99. The Proposed Administrator is of the view that the SISP and the Stalking Horse Agreement are appropriate for the following reasons:

- a) the Petitioner Strata Lots and the Business will be widely exposed to the market through the SISP by the Administrator and the Listing Agent;
- b) the timeline is sufficient to allow interested parties to perform due diligence and submit bids;
- c) the identification of potential bidders and initial contact with prospective candidates will be accompanied by an advertising campaign with national and international reach to increase exposure of the property offered for sale, and an introduction to the SISP;
- d) the Stalking Horse Agreement is fair and reasonable having considered the Petitioner Strata Lots, the Business, the Petitioners’ current financial position, and the

consideration contemplated by the Stalking Horse Agreement when measured against the Appraisal and Valuation Estimates;

- e) the Stalking Horse Agreement sets a fair 'base level' for the SISP;
- f) the Stalking Horse Purchaser will not be provided with any information that gives them an unfair advantage over other potential bidders;
- g) the Proposed Administrator has researched break fees in stalking horse bids of a similar size and nature using publicly available insolvency filing data related to real estate and has concluded that the Break Fee is reasonable, falling within the conventional range of approximately 1.0% to 3.9% for transactions valued between \$3.2 million and \$24.3 million; and
- h) the Listing Agent is incentivized to obtain the highest realizations for the Petitioner Strata Lots and the Business.

Listing Agent

100. The Listing Agent was selected pursuant to a proposal submission process conducted by the Proposed Administrator, in consultation with the Petitioners. The Proposed Administrator obtained real estate listing proposals from three commercial realty brokerages experienced in selling hospitality assets. Each of the listing proposals contained a sale commission structure, proposed marketing efforts, valuation estimates and relevant experience. After reviewing each of the listing proposals and holding discussions with each of the three realty brokerages, the Petitioners and the Proposed Administrator mutually agreed to select Avison as the Listing Agent as Avison had the lowest commission structure, a local presence and extensive experience with hospitality assets.

101. Avison's proposal included the following commission structure, which incentivizes the Listing Agent to obtain the highest sale value for stakeholders:

- a) 0.85% of the cash consideration of the sale, plus applicable sales tax, if the Stalking Horse Bidder is successful; or
- b) 1.35% of the cash consideration of the sale, plus applicable sales tax, if a party other than the Stalking Horse Bidder is successful.

Charges

102. The Petitioners require the expertise, knowledge and continued support of the Proposed Administrator, its legal counsel, and the Petitioners' legal counsel. The proposed Appointment Order (as defined in the Cimo Affidavit) contemplates that a Court-ordered charge on the Petitioners' Property be granted in favour of the Proposed Administrator, its legal counsel, and the Petitioners' legal counsel to secure payment of their respective fees and disbursements incurred in connection with this proceeding up to the maximum amount of \$500,000 (the "**Administration Charge**").
103. The Petitioners' directors are highly knowledgeable with respect to the Business and are essential to the success of the restructuring efforts. The proposed Appointment Order contemplates a Court-ordered charge on the Petitioners' Property be granted in favour of the directors of the Petitioners up to a maximum amount of \$350,000 (the "**Directors' Charge**"). The proposed Appointment Order contemplates that the Directors' Charge will rank subordinate to the Administration Charge and will only be available to the extent that the directors' existing insurance policies do not provide coverage for such claims.

Cash Flow Projections

104. The Petitioners, with the support of the Proposed Administrator, prepared monthly cash flow projections for the period January 2025 to May 2025 for each of ULC and SOAP (the "**Cash Flow Projections**"). The ULC and SOAP Cash Flow Projections are attached hereto as **Appendix "C"** and **Appendix "D"**, respectively.
105. ULC is projected to suffer a net cash outflow from operations of approximately \$105,000 before restructuring professional fees, and increasing to approximately \$732,000 after restructuring professional fees, resulting in a projected cash balance shortfall of approximately \$732,000 over the five-month period. The cash balance shortfall is projected to occur in February 2025.
106. SOAP is projected to suffer a net cash outflow from operations of approximately \$55,000 before restructuring professional fees, and increasing to approximately \$261,000 after restructuring professional fees, resulting in a projected cash balance shortfall of approximately \$261,000 over the five-month period. The cash balance shortfall is projected to occur in February 2025.
107. It therefore appears that both ULC and SOAP will suffer an imminent cash shortfall which will need to be addressed through additional liquidity from a third party. The Petitioners are in

discussions with third parties regarding their funding requirements. Neither ULC or SOAP have any secured creditors or encumbrances registered against their property, and the Proposed Administrator understands that the intention is for any such additional funds to be injected as a secured loan to the Petitioners. The Proposed Administrator will provide the Court with an update in due course if such funds are obtained. Should the Petitioners require any relief from the Court in connection with the third party funding they are pursuing, the Petitioners will seek relief from the Court in due course.

Right of Use Refunds

108. It is the intention of the Petitioners to segregate all cash receipts with respect to Timeshare Points and Vacation Leases by the right of use period contemplated by a specific Interval, such that if a stakeholder pre-pays for their right of use entitlement but is unable to utilize their right of use due to the closing of a transaction, those parties would be entitled to a refund of the amounts paid. The Petitioners will track funds collected by SOAP Members and MLMA Members which pertain to all Interval periods to ensure funds received pertaining to a right of use period which is unable to be utilized will not be spent in the ordinary course of the Petitioners' business.

X. RECOMMENDATIONS

109. Based on the foregoing, the Proposed Administrator recommends that the Court grant the relief sought by the Petitioners.

All of which is respectfully submitted on the 22nd day of January, 2025.

BDO Canada Limited
solely in its capacity as Proposed Administrator of
SVC-MOUNTAINSIDE ULC and
SHELL OWNERS ASSOCIATION - PACIFIC
and not in its personal or corporate capacity



Matthew Marchand, CPA, CMA, CIRP, LIT
Senior Vice President

APPENDIX "A"

Consent to Act

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF THE *LAW AND EQUITY ACT*, R.S.B.C.
1996, c. 253, AS AMENDED
AND IN THE MATTER OF THE PROCEEDINGS OF SVC-
MOUNTAINSIDE ULC AND SHELL OWNERS
ASSOCIATION – PACIFIC

Petitioners

CONSENT TO ACT

BDO Canada Limited (“BDO”) hereby consents to act as Administrator of the Petitioners pursuant to the terms of the Appointment Order, substantially in the form attached to the petition of the Petitioners, returnable January 23, 2025, as such order may be amended.

Dated at Toronto, Ontario this 13th day of January, 2025.

BDO Canada Limited



Name: Matthew Marchand, CPA, CMA,
CIRP, LIT

Title: Partner & Senior Vice President

APPENDIX "B"
Listing Agreement



EXCLUSIVE RIGHT TO SALE AGREEMENT

BDO Canada Limited, solely in its capacity as the court-appointed administrator (in such capacity, the “**Administrator**”) of SVC-Mountainside ULC (“**ULC**”) and Shell Owners Association – Pacific (“**SOAP**” and together with ULC, the “**Petitioners**”), engages Avison Young Commercial Real Estate Services, LP (“**Avison Young**”) as its sole agent and grants to Avison Young the exclusive right to sell the real property described below in accordance with the terms contained herein.

1. **DEFINED TERMS.** Capitalized terms used herein that are not otherwise defined shall have the meaning given to them in the Sale and Investment Solicitation Process (the “**SISP**”).
 2. **PROPERTY.** Located at 4417 Sundial Place in the city of Whistler, Province of British Columbia, which property is further described as approximately 56 strata lots pursuant to the *Strata Property Act* (B.C.) and the proportionate ownership of the common property in accordance with the *Strata Property Act*, in the building located at 4417 Sundial Place (collectively the “**Property**”).
 3. **TERM.** This Listing Agreement:
 - (a) Is conditional upon, and shall only come into full force and effect, upon the granting of an order (the “**SISP Order**”) made in the Supreme Court of British Columbia (the “**Court**”), among other things, approving the SISP, this Listing Agreement and the engagement of Avison Young by the Administrator, and shall remain in full force and effect from the date of the SISP Order until 5:00 o'clock p.m., Pacific Time on May 31, 2025 (the “**Initial Term**”); and
 - (b) automatically renews for consecutive terms of one month until terminated by either Avison Young or the Administrator by way of not less than fifteen days’ written notice.
- (“**Term**” means the term of this Listing Agreement and any renewals.)
4. **LIST PRICE.** Avison Young will list the Property on an unpriced basis and will market the Property unpriced and solicit offers to purchase the Property based on pricing guidance achieved through consultation with the Administrator.
 5. **COMMISSION.** Commission shall only become payable upon closing of: (i) a sale pursuant to Section 6 during the Term; (ii) a sale following expiration of the Term pursuant to Section 11; or (iii) should a sale be made as a result of negotiations that originated during the Term, then, subject to Section 11, the Administrator agrees to unconditionally pay Avison Young, for and on behalf of the Petitioners from the proceeds of sale of the Property, a commission of:
 - (i) If the purchaser of the Property is the Stalking Horse Bidder, 0.85% of the cash consideration of the sale, expressly excluding any amounts in relation to assumed liabilities, plus applicable sales taxes; or
 - (ii) If the purchaser of the Property is a person other than the Stalking Horse Bidder, 1.35% of the cash consideration of the sale or deemed sale, expressly excluding any amounts in relation to assumed liabilities, plus applicable sales taxes.

(the “**Commission**”)

In the event of involvement of an outside agent representing the purchaser of the Property and the purchaser is a person other than the Stalking Horse Bidder, the Commission will not be split between

Avison Young and the outside agent, as the Successful Bidder will be responsible for any fees of an outside agent.

6. **Sale of Property.** The Commission will be fully earned by Avison Young immediately upon the closing of a transaction involving the Property, which will be evidenced by the service of a certificate of the Administrator that, among other things: (a) confirms that the purchaser has paid or otherwise satisfied the purchase price under the applicable purchase agreement, (b) all closing conditions as set out in the purchase agreement have either been satisfied or waived, and (c) the transaction has been completed to the satisfaction of the Administrator.
7. **Payment of Commission.** The Administrator will pay the Commission, for and on behalf of the Petitioners from the proceeds of sale of the Property upon the closing of the sale (the "**Closing Date**"), provided that the purchase agreement and the transaction contemplated thereby have been approved by order of the Court.
8. **Taxes.** In addition to any other amounts payable, the Administrator agrees to pay, for and on behalf of the Petitioners from the proceeds of sale of the Property, to Avison Young, or to the applicable taxing authority as required by law, at the time of payment of the Commission, any G.S.T., sales tax, value added tax, or any other similar tax imposed against the Petitioners by any federal, provincial, or municipal law, bylaw, or regulation (collectively, "**Taxes**").
9. **[NTD: Intentionally deleted. Administrator will hold any deposits.]**
10. **Irrevocable Order and Direction to Pay.** The Administrator will pay or will cause its solicitors to pay to Avison Young, for and on behalf of the Petitioners, the Commission and other amounts that may be or become owing by the Administrator to Avison Young from the proceeds of sale of the Property.
11. **Sales Following Expiration of Term.** The Administrator agrees that in the event the Property is sold within 30 days following the earlier of the expiration of the Term or the date of the termination of the Listing Agreement, and:
 - (a) the purchaser was introduced to the Administrator by Avison Young; or,
 - (b) the purchaser purchased the Property as a result of negotiations or services provided by Avison Young prior to the termination or expiration of the Term,then the Administrator agrees to pay, for and on behalf of the Petitioners, and solely from the proceeds of sale of the Property, the Commission and any other amounts payable to Avison Young in accordance with the provisions of this Listing Agreement. Within five days of the expiration or termination of the Term, Avison Young will provide to the Administrator, a written list of any prospective purchasers, who have been in direct contact with Avison Young with respect to the potential purchase of the Property or that Avison Young are actively pursuing.
12. **Reimbursement of Pre-Court Approval Costs.** If Avison Young is retained to commence preliminary work in preparation for the SISP prior to the Court's approval of the SISP Order, and the SISP Order is not granted for any reason whatsoever, Avison Young agrees to limit its reimbursement claim to the recovery of hard costs directly incurred in preparing the marketing materials, which Avison Young hereby acknowledges and confirms shall be payable by the Petitioners and not the Administrator. Such reimbursement shall not exceed a maximum of CAD\$5,000, which shall be supported by detailed invoices or other appropriate documentation evidencing the incurred costs.
13. **[NTD: Intentionally deleted.]**
14. **Transaction Brokerage.** The Administrator acknowledges that from time-to-time Avison Young may also be asked to represent a purchaser or prospective purchaser of the Property. In the event that

Avison Young wishes to represent both the Administrator and the purchaser, or prospective purchaser, then Avison Young will:

- (a) immediately advise the Administrator of its desire to undertake concurrent representation of the Administrator and the purchaser or prospective purchaser;
- (b) give the Administrator an opportunity to seek independent advice concerning the joint representation; and
- (c) obtain the agreement of the Administrator and the purchaser, or prospective purchaser, to the form of Transaction Brokerage Agreement attached as **Schedule "A."**

In the event the Administrator is not prepared to enter into the Transaction Brokerage Agreement, then Avison Young will continue to represent the Administrator only, and Avison Young will advise the purchaser or prospective purchaser accordingly.

15. **Notice.** Any notice required to be given may be given to Administrator at;
BDO Canada Limited 20 Wellington Street East, Suite 500 Toronto, ON, M5E 1C5
Attn: Matthew Marchand and Adam Boettger
Email: mmarchand@bdo.ca and aboettger@bdo.ca

and to Avison Young at:

Suite 1200, 585 – 8th Avenue SW, Calgary, Alberta, T2P 1G1
Attn: XXX, XXX,
Email: XXX.XXX@avisonyoung.com, XXX.XXX@avisonyoung.com,

or such other address of which either party may notify the other from time to time in writing.

16. **[NTD: Intentionally deleted. Administrator will not provide indemnity.]**
17. **Limitation.** Except with respect to gross negligence, willful misconduct, or fraud, at no time will the total liability of Avison Young for any breach or any violation of this Agreement, or for any error or omission in the performance of the Services provided for herein, exceed the lesser of the actual amount of commission paid or \$1,000,000. In no event shall either party to this Agreement be liable to the other or to any other party for any punitive, exemplary, special, indirect, incidental or consequential damages (including but not limited to lost profits or lost business opportunities) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the party has been advised of the possibility of such damages or loss.
18. **Administrator's Limited Liability.** In addition to all of the protections granted to the Administrator in the SISP Order or any other Order made by the Court, Avison Young acknowledges and agrees that the Administrator, acting in its capacity as Administrator and not in its personal or corporate capacity, will have no liability, in its personal capacity, corporate capacity or otherwise, in connection with this Agreement or the transaction whatsoever, and that Avison Young's sole recourse against the Administrator under this Agreement shall be in respect of Commission's payable to Avison and Young from the proceeds of sale generated by the sale or deemed disposition of the Property.
19. **Legal Documentation:** The Administrator acknowledges and understands that Avison Young may provide certain templates, documents, or materials (collectively referred to as "**Templates**") solely as a convenience and for informational purposes. The Administrator further acknowledges that Avison Young is not a legal service provider, and the Templates provided are not intended to constitute legal advice. The Administrator is strongly encouraged to seek independent legal advice from a qualified legal professional before using any Templates provided by Avison Young. The Administrator understands and agrees that Avison Young shall not be held responsible or liable for any legal implications, consequences, disputes, or issues that may arise from the use of the Templates. The Administrator assumes all risks associated with their use of the Templates.

20. **Unenforceable Terms.** Any term, condition, or provision of this Listing Agreement that is or will be deemed to be void, prohibited, or unenforceable in any jurisdiction will, as to such jurisdiction, be severable and be ineffective to the extent of such avoidance, prohibition, or unenforceability without in any way invalidating the remaining terms, conditions, and provisions.
21. **Conflict of Laws.** This Listing Agreement will be construed and enforced in accordance with the applicable laws of the Province of British Columbia and the applicable laws of Canada and the parties hereto attorn to the courts of the Province of British Columbia. The parties hereby irrevocably attorn to the Supreme Court of British Columbia in the proceeding to be commenced by the Petitioners.
22. **Enurement.** This Listing Agreement will enure to the benefit of and be binding upon the parties hereto together with their respective successors and assigns.
23. **Headings.** The headings used in this Listing Agreement are for convenience of reference only and will not be deemed to be a part of this Listing Agreement and will not be referred to in connection with the construction and interpretation of this Listing Agreement.
24. **Severability.** In the event that any provision of this Agreement shall be held to be invalid or unenforceable, such ruling shall not affect the validity or enforceability of the remainder of the Agreement in any respect whatsoever.
25. **Time of the Essence.** Time is of the essence of this Listing Agreement and of every part of it.
26. **Counterparts.** This Listing Agreement may be executed in one or more counterparts, each of which will be considered an original but all of which together will constitute one and the same instrument. In addition, facsimile or electronic copies of executed counterparts will be conclusively regarded for all purposes as originally executed counterparts pending the delivery of the originals.
27. **Authority.** Subject to the Court granting the SISP Order, the Administrator confirms that the Administrator will have the full power and authority to enter into this Listing Agreement and to assist the Petitioners in the marketing and sale of the Property. The Administrator acknowledges having read this Listing Agreement and having received a true copy of it. The Administrator further acknowledges to Avison Young that the Administrator does not hold an authorization as a real estate broker issued by the Real Estate Council of British Columbia.

DATED at the City of _____, in the Province of _____, this__day of _____, 20__.

**BDO Canada Limited, solely in its capacity as
Administrator of the Petitioners and not in its
personal or corporate capacity**

PER: _____

DATED at the City of _____, in the Province of _____, this__day of _____, 20__.

AVISON YOUNG COMMERCIAL REAL ESTATE
SERVICES, LP

PER: _____



SCHEDULE "A"

In this Schedule "A", the following terms have the following meanings:

- (a) "Facilitation Services" means the services Avison Young will provide to both us and the Prospective Purchaser as set out in the Transaction Brokerage Agreement;
(b) "Prospective Purchaser" means a person or corporation who has expressed an interest in purchasing the Property and who has asked Avison Young to assist it;
(c) "Transaction Brokerage Agreement" means the written agreement to be entered into between Avison Young, the Prospective Purchaser, and us, which sets out the terms and conditions under which Avison Young will act as a Transaction Facilitator;
(d) "Transaction Facilitator" means the role of Avison Young in providing Facilitation Services on behalf of us and the Prospective Purchaser.

The Administrator, for and on behalf of the Petitioners, acknowledges and agree that:

- (a) in being asked to represent the interests of both Owner and the Prospective Purchaser, Avison Young may have a conflict of interest, preventing Avison Young from:
(i) acting solely in the best interest of either Owner or the Prospective Purchaser to the exclusion of the other;
(ii) avoiding potential conflicts of interest that may arise as a result of acting on behalf of both Owner and the Prospective Purchaser;
(iii) disclosing or revealing all facts and information that may influence the decisions of Owner or the Prospective Purchaser; and
(iv) maintaining the confidentiality of any information or documentation obtained from either Owner or the Prospective Purchaser;
(b) Avison Young may only act as Transaction Facilitator with the informed and voluntary consent of both Owner and the Prospective Purchaser;
(c) Avison Young has advised Owner to seek independent advice concerning Avison Young acting as a Transaction Facilitator;
(d) Owner consents to Avison Young acting as a Transaction Facilitator and in so doing to provide the Facilitation Services; and
(e) Owner will enter into Avison Young's standard form of Transaction Brokerage Agreement with Avison Young and the Prospective Purchaser.

Table with 2 columns: Owner, Avison Young. The table contains two empty rectangular boxes for signatures.

APPENDIX "C"

ULC Cash Flow Projection

SVC-Mountainside ULC ("ULC")

Cash Flow Projection (January 2025 to May 2025)

Month No. Month Ending	1 31-Jan-25	2 28-Feb-25	3 31-Mar-25	4 30-Apr-25	5 31-May-25	Total	Notes
Cash Inflows							
Intercompany advance	417,000	-	-	-	-	417,000	(3)
GST refunds	-	-	19,857	19,853	4,952	44,662	
Total Cash Inflows	417,000	-	19,857	19,853	4,952	461,662	
Cash Outflows							
MLMA maintenance fees	417,000	-	-	-	-	417,000	(3)
SOAP billings	-	-	50,000	50,000	33,523	133,523	(4)
Financial service fee	-	15,671	-	-	-	15,671	
Total Cash Outflows (before undernoted)	417,000	15,671	50,000	50,000	33,523	566,194	
Net Cash Inflow / (Outflow) before restructuring costs	-	(15,671)	(30,143)	(30,147)	(28,571)	(104,532)	
Restructuring costs							
Administrator	-	154,863	27,000	27,000	40,500	249,363	
Administrator's counsel	-	47,250	13,500	13,500	27,000	101,250	
Applicant's counsel	-	199,125	13,500	23,625	40,500	276,750	
Total restructuring costs	-	401,238	54,000	64,125	108,000	627,363	(5)
Net Cash Inflow / (Outflow) after restructuring costs	-	(416,909)	(84,143)	(94,272)	(136,571)	(731,895)	
Cash Balance:							
Opening balance	-	-	(416,909)	(501,052)	(595,324)	-	
Net Cash Inflow / (Outflow)	-	(416,909)	(84,143)	(94,272)	(136,571)	(731,895)	
Ending balance (Deficit)	-	(416,909)	(501,052)	(595,324)	(731,895)	(731,895)	

Notes:

- 1 The cash flow projection timeframe coincides with the sale and investment solicitation process. All line items (receipts and disbursements) are estimated based on normal course operations. Actual results may differ from estimates, and differences may be material.
- 2 Applicable revenues and expenses are assumed to be subject to GST (of 5%). No revenues or expenses are assumed to be subject to PST (of 8%).
- 3 ULC has issued payment in January 2025 to MLMA for all applicable fees related to ULC's annual interests, with the advance being made by a related party.
- 4 ULC is estimated to remit payment to SOAP to cover 5/12 of ULC's allotment of 'points' (i.e. January to May), related to the timeshare program operated by SOAP covering the periods January to May 2025.
- 5 Restructuring professional fees are inclusive of estimated accruals to December 31, 2024 and monthly estimates of fees thereafter. Disbursements in February 2025 reflect payment of all accrued fees up to January 2025. Professional fees are assumed to be paid one month in arrears thereafter. Professional fees are assumed to be split approx. 64/36 between ULC and SOAP, respectively, based on the proportion of each parties' beneficial ownership in the Shell Mountainside Lodge.

APPENDIX "D"

SOAP Cash Flow Projection

Shell Owners Association - Pacific ("SOAP")
Cash Flow Projection (January 2025 to May 2025)

Month No. Month Ending	1 31-Jan-25	2 28-Feb-25	3 31-Mar-25	4 30-Apr-25	5 31-May-25	Total	Notes
Cash Inflows							
SOAP member assessments	150,000	79,604	79,604	79,604	79,604	468,418	(3)
ULC assessments	-	-	50,000	50,000	33,523	133,523	(4)
Maintenance fee assessments	150,000	79,604	129,604	129,604	113,127	601,941	
Late fee revenue	474	474	474	474	474	2,368	
Billing service revenue	630	630	630	630	630	3,150	
Rental revenue	5,192	5,192	5,192	5,192	5,192	25,958	
GST refunds	-	-	-	-	9,860	9,860	
Total Cash Inflows	156,295	85,900	135,900	135,900	129,282	643,277	
Cash Outflows							
MLMA maintenance fee	153,461	111,608	111,608	111,608	111,608	599,892	(5)
MLMA maintenance accommodation fee	29,539	-	-	-	-	29,539	
Audit and tax preparation fees	-	-	-	-	12,239	12,239	
Accounting fee	5,030	5,030	5,030	5,030	5,030	25,148	
Management fee	6,101	3,690	3,699	3,699	4,081	21,270	
Financial service fee	786	417	679	679	593	3,156	
Insurance	4,767	-	-	-	-	4,767	
Bank service charge	100	100	100	100	100	500	
GST remittance	2,254	-	-	-	-	2,254	
Total Cash Outflows (before undernoted)	202,038	120,845	121,115	121,115	133,651	698,764	
Net Cash Inflow / (Outflow) before restructuring costs	(45,742)	(34,945)	14,784	14,784	(4,369)	(55,487)	
Restructuring costs							
Administrator	-	86,035	15,000	15,000	22,500	138,535	
Administrator's counsel	-	26,250	7,500	7,500	15,000	56,250	
Applicant's counsel	-	110,625	7,500	13,125	22,500	153,750	
Total restructuring Costs	-	222,910	30,000	35,625	60,000	348,535	(6)
Net Cash Inflow / (Outflow) after restructuring costs	(45,742)	(257,855)	(15,216)	(20,841)	(64,369)	(404,022)	
Cash Balance:							
Opening balance	143,076	97,334	(160,521)	(175,737)	(196,578)	143,076	(7)
Net Cash Inflow / (Outflow)	(45,742)	(257,855)	(15,216)	(20,841)	(64,369)	(404,022)	
Ending balance (deficit)	97,334	(160,521)	(175,737)	(196,578)	(260,946)	(260,946)	

Notes:

- The cash flow projection timeframe coincides with the sale and investment solicitation process. All line items (receipts and disbursements) are estimated based on normal course operations. Actual results may differ from estimates, and differences may be material.
- Applicable revenues and expenses are assumed to be subject to GST (of 5%). No revenues or expenses are assumed to be subject to PST (of 8%).
- SOAP member assessment cash receipts are estimated based on the collection of fees from: i) all SOAP members who pay on an annual basis, ii) for SOAP members who pay on a monthly basis, for the timeframe the coincides with the sale and investment solicitation process, and (iii) reduced for an estimate for delinquent accounts.
- SOAP is estimated to receive payment from ULC to cover 5/12 of ULC's allotment of 'points' (i.e. January to May), related to the timeshare program operated by SOAP covering the periods January to May 2025.
- SOAP is estimated to issue payments in the normal course for all applicable fees related to SOAP's 'intervals' for the timeframe that coincides with the sale and investment solicitation process.
- Restructuring professional fees are inclusive of estimated accruals to December 31, 2024 and monthly estimates of fees thereafter. Disbursements in February 2025 reflect payment of all accrued fees up to January 2025. Professional fees are assumed to be paid one month in arrears thereafter. Professional fees are assumed to be split approx. 64/36 between ULC and SOAP, respectively, based on the proportion of each parties' beneficial ownership in the Shell Mountainside Lodge.
- The opening cash balance is based on the actual bank balances as at December 31, 2024, which bank accounts remain subject to reconciliation.